The Solicitors' Journal

Vol. 105 No. 8 [pp. 165–188] FEBRUARY 24, 1961 [One shilling and ninepence

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THE

SOLICITORS' JOURNAL

VOLUME 105
NUMBER 8

CURRENT TOPICS

This Must be Changed

WE are seriously concerned about the decision of the Divisional Court last week in *Southend-on-Sea Corporation* v. *Hodgson (Wickford), Ltd.*, which we report this week on p. 181. So apparently were the LORD CHIEF JUSTICE and WINN and WIDGERY, JJ., who were compelled to reach a decision in law which conflicted with common sense. Hodgson (Wickford), Ltd., are builders who wished to buy a piece of land and use it as a builders' yard. On 12th February, 1959, they received from the borough engineer of the Southend-on-Sea Corporation a letter which read, *inter alia*: "... the land ... has an existing user right as a builders' yard and no planning permission is therefore necessary." Relying on this letter, the company bought the land and moved a quantity of materials and equipment on to it, none of which they would have done if they had thought that any further planning permission was required. On 20th April, 1960, the corporation served an enforcement notice requiring the use to be discontinued. The company complained to the justices that no planning permission was required and submitted that the corporation were estopped from calling evidence to contradict the statements in the borough engineer's letter. The justices quashed the enforcement notice and the corporation appealed. The Lord Chief Justice said that the decision of the justices clearly accorded with common sense but went on to say that there was a long line of cases in which it had been held that a public authority could not by contract hinder the exercise of their discretion and similarly they could not hinder themselves by estoppel. The corporation therefore succeeded, though the Lord Chief Justice came to this conclusion reluctantly. This is an intolerable situation. If someone goes to the trouble of inquiring about the lawful use of land and receives a written statement from a responsible official of the local authority, he ought to be able to rely on it and either continue with the use or be entitled to compensation for abortive expenditure. Parliament should amend the law without delay. Probably the best method of meeting the immediate difficulty would be to enable anyone to apply for and obtain a certificate of permitted use which would have the same legal effect as a planning consent.

Ten Years of Legal Aid

THE publication of the tenth report of The Law Society on Legal Aid and Advice so long after the end of the year which it covers (April, 1959, to March, 1960) means that it is a record and not news. The only part of the volume (H.M.S.O., 4s. 6d.) hitherto unpublished is that which contains the comments and recommendations of the Lord Chancellor's

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Advisory Committee, the statutory voice of the consumers. As usual, the Committee are complimentary to The Law Society and to the legal profession in general. It is unfortunate not only that it should have taken over ten years to implement the Act in full but that the last in the queue should be civil proceedings before the magistrates. We are promised this last extension shortly. We must also prepare an obituary notice for the Divorce Department, which has been in failing health, though in full possession of its faculties, for some time past.

Suicide

THE introduction by the Government of the Suicide Bill will be generally welcomed. The essence of the Bill is succinctly stated in cl. 1, which reads: "The rule of law whereby it is a crime for a person to commit suicide is hereby abrogated." Thus at a stroke this country's law on this sad subject will be brought into conformity with modern enlightened opinion and English law will no longer lag behind foreign legal codes in this context. A consequential step is taken by cl. 2, which makes it an offence for a person to aid, abet, counsel or procure the suicide or attempted suicide of another person and provides a maximum penalty of fourteen years' imprisonment. The consent of the Director of Public Prosecutions is required for proceedings for such an offence of complicity in another's suicide, which will not be triable by a court of quarter sessions (cl. 2 (4)).

Privacy

THE object of the Right of Privacy Bill, introduced by LORD MANCROFT, is stated to be "to give to every individual such further protection against invasion of his privacy as may be desirable for the maintenance of human dignity while protecting the right of the public to be kept informed in all matters in which the public may be reasonably concerned." Few of us approve of uncouth badgering of victims of tragedy by journalists in the interests of news—at which this Bill appears to be aimed—but we doubt whether its provisions will be effective. First, the right of action the Bill creates is limited to being against a person who without the plaintiff's consent "publishes of or concerning him . . . any words relating to his personal affairs or conduct." Thus obnoxious behaviour on the part of journalists in search of background information, and not followed by publication of items strictly relating to the victim's personal affairs, will not be prevented. Secondly, one of the defences laid down in the Bill is proof that at the time of publication the plaintiff was the subject of reasonable public interest by reason of some contemporary event directly involving the plaintiff personally; this defence seems tailor-made for the journalist obtaining news about, for instance, the medical progress of a politician after an operation. A better approach to achieve the Bill's object might be to widen the law of nuisance.

Housing and Highways

TWO further Bills now published are the Housing Bill and the Highways (Miscellaneous Provisions) Bill. The first is a substantial document of thirty-three clauses and four Schedules which has a variety of objects. Primarily it gives effect to the Government's plans to make radical changes in the housing subsidy system as announced in the recently published White Paper entitled "Housing in England and Wales" (Cmnd. 1290, H.M.S.O., 1s.). Amendments are made to the Housing Act, 1957, in respect of houses in multiple occupation and the reconditioning of condemned houses, and to enable a local authority to have discretion to substitute a closing order for a demolition order so as to permit a condemned house to be retained for non-residential use. The return to which an owner of a house let on a controlled tenancy is entitled for improvements made to the property is to be increased from 8 per cent. to 12½ per cent. of his expenditure. Clauses 29 and 30 deal with the repairing obligations of the parties to short leases of dwelling-houses; under these the landlord is made liable for the repair of the structure and exterior of the premises and of certain main installations; any express repairing covenant by the tenant is to be inoperative so far as it relates to the matters for which the landlord is so liable, the county court being authorised to approve modification of these liabilities in any proper case. The purpose of the Highways Bill is declared to be to amend the law in order to give highway authorities additional powers in carrying out their responsibilities; we have searched in vain for any reference to non-feasance.

"Private Gain"

THE decision of the Divisional Court (LORD PARKER, C.J., and WINN and WIDGERY, JJ.) in *Payne and Others* v. *Bradley*, given last Friday, which we report on p. 182 of this issue, is obviously of considerable importance. The appellants held tombola sessions in the main hall of the Huddersfield Friendly and Trade Societies Club, a working men's club, and the proceeds were paid into the club's general fund. Indeed, in 1959, the profits from these sessions were £900, just £159 less than the amount received by way of membership fees. For the purposes of the case it was conceded that tombola was a game, that it was played as an entertainment and that it was a lottery. To have a defence to the charge of conducting a lottery contrary to s. 22 (1) of the Betting and Lotteries Act, 1934, the appellants needed to establish that the proceeds of the game were "applied for purposes other than purposes of private gain" within s. 4 (1) (*c*) of the Small Lotteries and Gaming Act, 1956. This they failed to do and their appeal against their conviction by the Huddersfield magistrates was dismissed. Looking at the various exemptions and the repeated references to private gain in connection with the promotion of a lottery, Lord Parker, C.J., was satisfied that "private gain" referred to private gain to the organisers of the lottery and those they represented. His lordship added that "if the appellants were treated as the club, or as representing the members, it was impossible to contend that the club itself and the individual members did not get a private gain . . . In every sense of the words this money was going for the private gain and benefit of the individual members." We are not surprised by this decision and when we considered the magistrates' findings ("Tombola for 'Private Gain'?" (1960), 104 SOL. J. 787) we were unable to find any ground on which to criticise them. Whether this result was intended by Parliament is, of course, another matter, but the decision in *Payne and Others* v. *Bradley* does not seem to us to be inconsistent with *Bow* v. *Heatley* 1960, S.L.T. 311, a decision of the Scottish High Court of Justiciary. Not least of the consequences of the Divisional Court's decision is that the meaning of several of the provisions of the Betting and Gaming Act, 1960, which appear to have been given a very generous interpretation will have to be reconsidered.

SELF-SERVICE

A PARTNERSHIP firm, like a sole trader, has no opportunity for making reserves free of surtax. All its net income, computed in accordance with the Income Tax Act, 1952, is chargeable to surtax in the hands of the partners, if they are sufficiently prosperous, and no allowance can be made for future contingencies or for levelling out the fluctuations of annual income that bear so hardly on the surtax payer. In the case of a trade when this position becomes intolerable a company can be formed and, provided that a wary eye is kept on s. 245 of the Income Tax Act, 1952, and the Special Commissioners are given no excuse for making a surtax direction, reserves can be accumulated without liability to surtax. But where the business is a professional one that cannot be carried on by a company, the ordinary loophole is not available, and it is from this situation that the idea of the service company was born.

The general idea is this. Although the profession, as in the case of solicitors, may be one that cannot be exercised by a company, the firm is bound to be engaged in subsidiary activities that are not part of the profession. Premises have to be provided, and staff and office equipment, and there is no reason why this should not be done under contract by a company. If the partners decide to form a company with the object of providing services of this sort, they can arrange with the company to pay it a fee, which may be calculated as a proportion of the firm's profits, for looking after all their material needs, leaving themselves free for purely professional duties and incidentally salting away a portion of the profits into the safe hands of the company.

So far so good, but it would be a mistake to imagine that all surtax problems can immediately be solved by this simple scheme. In common with most tax-saving schemes, its operation must be kept within reasonable limits if it is to be successful, and there are at least three points to watch.

Services limited

In the first place the firm will not be allowed to pay away the whole, or anything like the whole, of its profits to the service company, and this is the principal limitation on the scope of the operation. The reason is that s. 137 of the Income Tax Act specifically prohibits deduction from profits of any amounts not wholly and exclusively laid out or expended for the purposes of the business, and if the firm pays out more for service than can be justified, allowing a reasonable profit to the company, then the payment will be disallowed for tax in the firm's own accounts and the object of the exercise will be defeated. In practice the payment to be made is a matter for negotiation with the inspector, and it is believed that a firm is often allowed to pass on to the company about 25 per cent. of what would otherwise have been the firm's net profits before tax.

Secondly the affairs of the company must not be conducted in such a way as to attract a surtax direction on its accumulated profits. The most satisfactory course would be to have a company to which s. 245 did not apply, because it was not under the control of five persons or less, but this is not easy to arrange when one remembers that for the purpose of defining a controlled company any number of partners counts as one person. If the partners wished to be themselves the shareholders of the company in order to secure a fair apportionment of the profits, and at the same time to have a company which was not controlled, it would be necessary for them to dissolve the partnership and practise in future as individuals; even then there would have to be at least eleven shareholders none of whom were related to one another! In most cases it is better to abandon the idea of avoiding s. 245 altogether, and to limit the company's reserves to a reasonable figure which will not arouse the cupidity of the Special Commissioners. If the firm has short leasehold premises these can be transferred to the company, and a company with a wasting asset of this sort can justify the making of very considerable reserves against dilapidations and the cost of renewal.

Thirdly it must be remembered that the profits of the company in excess of £2,000 p.a. will be liable to some profits tax, while profits accumulated within the company bear income tax without any earned income relief. As in the case of all incorporations for tax saving, it is necessary to make sure that surtax avoided will not be outweighed by profits tax and the loss of earned income relief.

A question of co-operation

One thing which should be clear by now is that only the large and wealthy professional firm has anything much to gain by forming its own service company. It is understood that in a few cases this has been done by solicitors, and that it has become a comparatively common practice for stockbrokers. But if the private service company is impracticable for most of us, is there any reason why one company should not serve a number of firms? If the expense of forming and administering a company could be shared in this way it should be possible to adopt the scheme in cases of quite small saving, and one pictures the benefits that might flow, quite apart from tax saving, from a joint service company operated by all the solicitors in a particular district, or in conjunction with members of other professions such as chartered accountants.

Unfortunately there are grave difficulties in the way. The main object of the service company is the accumulation of profits within the company which can later be used for the benefit of the promoters in various ways. For example, accumulated profits may with advantage be used to purchase new capital assets, to equalise income in lean years (if any), and in certain circumstances to provide pensions for retiring partners. If the partners in one firm, or trustees for their families, hold shares in the company in proportion to their partnership shares from time to time, it is not difficult to arrange that these benefits accrue to the partners equitably, and if eventually the company is wound up its assets will be returned as capital to the members in proportion to their holdings. But if the members are partners in different firms it seems impossible to devise any scheme by which the benefits could be secured to them in proportion to the contributions and needs of the different firms, unless indeed the company were run on a purely commercial basis, which is a matter outside the scope of this article.

The whole question of service companies would probably have been more prominent during the last few years if it had not been for the Finance Act, 1956, which allows tax relief for contributions to retirement annuities. This has to some extent lightened the burden of those who are, and must remain, self-employed, but for the larger firm the idea of the service company still has its attractions, especially where the senior partners are not young enough to benefit from the 1956 Act.

PHILIP LAWTON.

"The Solicitors' Journal"
Friday, February 24, 1961

BETTING OFFICE LICENCES—I

THE GRANT OF THE LICENCE

THE Peppiatt Committee on a Levy on Betting on Horse Racing estimated that there are 10,000 bookmakers operating in the United Kingdom on horse racing alone, and the number of applications for bookmakers' permits so far made seems to suggest that this figure is likely to prove, if anything, an under-estimate. The Betting and Gaming Act, 1960, has introduced no less than four permits, licences or authorisations, each or all of which these bookmakers may, from time to time, require—

(*a*) bookmakers' permits authorising persons to act as bookmakers on their own account;

(*b*) betting agency permits entitling accredited agents of bookmakers and of the Racecourse Betting Control Board to hold betting office licences;

(*c*) betting office licences authorising the use of premises for effecting betting transactions with persons resorting thereto;

(*d*) authorisations in writing enabling persons by way of business to receive or negotiate bets as servant or agent of another bookmaker or of the Board.

It would seem, therefore, that the Act has ushered in a new and important chapter in our licensing law.

At present betting on credit is lawful when conducted on the course or by telephone, telegram or post, but ready-money cash betting is not lawful off the course in "any house, office, room or other place for the purpose of betting with persons resorting thereto," because it is prohibited by s. 1 of the Betting Act, 1853, or in the streets because it is forbidden by the Street Betting Act, 1906. Part I of the Betting and Gaming Act, 1960, which comes into operation on 1st May, 1961, repeals s. 1 of the Act of 1853, so that cash betting by post will become lawful from that date, but s. 4 of the new Act makes it unlawful to use any premises for the purpose of effecting betting transactions with persons resorting thereto unless there is for the time being in force a licence, known as a betting office licence, authorising the holder to use those premises for that purpose. The definition of a betting transaction in s. 28 includes the collection or payment of the winnings made on a bet, so that, if clients resort to a bookmaker's office to settle their accounts, a licence will be required. It should also be noted that s. 3 (2) of the Betting and Lotteries Act, 1934, has not been repealed except in the case of horse totalisator business. Dog and football pool bets may therefore not be accepted in betting offices.

Applications for betting office licences

The only persons who can apply for the grant or renewal of a betting office licence are those who hold or have applied for a bookmaker's permit, the Racecourse Betting Control Board and those who hold or have applied for a betting agency permit. These last are agents accredited in writing under s. 3 either by a bookmaker, holding a bookmaker's permit, or by the Board, for the purpose of receiving and negotiating bets by way of business for that bookmaker or the Board, who have applied for or received a permit to enable them to obtain a betting office licence.

Applications may now be made at any time to the Clerk to the Betting Licensing Committee appointed by the justices of each petty sessions area in England and Wales and to the licensing court in any licensing area within the meaning of the Licensing (Scotland) Act, 1959, in Scotland, but no application may be considered until 1st March. They may then be heard at any time. The authority is specifically required to fix a day in each of the months of January, April, July and October in England and of January, March, June and October in Scotland for dealing with any applications then awaiting consideration. Applications for the grant of a licence must be on Form 3 prescribed by the Betting (Licensing) Regulations, 1960 (S.I. 1960 No. 1701), and by the Betting (Licensing) (Scotland) Regulations, 1960 (S.I. 1960 No. 1748), enclosing a plan showing the layout of the proposed premises. Applications for a renewal must be on Form 6 prescribed by the same regulations. On an original application for the grant of a licence, but not in the case of a renewal, the applicant must, not later than seven days after making his application, send a copy of it to the chief officer of police for the police area in which the premises are or will be situated and to the appropriate local authority, which is the council of the county borough, metropolitan borough or county district or the Common Council of the City of London in whose area the premises are or will be situated in England, and the council of the burgh or to the council of the county and of the district concerned in Scotland. He must also insert an advertisement in a newspaper circulating in the authority's area, not later than fourteen days after making his application, inviting any person who desires to object to the grant of the licence to send to the clerk of the authority, by a specified date, which must not be less than fourteen days after the publication of the advertisement, two copies of a brief statement in writing of the grounds of his objection. A copy of the newspaper containing the advertisement must be sent to the clerk of the authority within seven days of publication. A similar notice must also be posted up outside the entrance or on the site of the proposed entrance of the premises not later than fourteen days before the date specified and reasonable steps must be taken to keep the notice so posted until that date.

The authority cannot consider an application until at least fourteen days have elapsed after the date specified in the advertisement and then, at least seven days before the date fixed for considering the application, the clerk must send written notices of the date, time and place of the meeting to the applicant (enclosing a copy of any objection received), to the police and to any objector who has not withdrawn his objection. No application can be granted until 1st March, 1961, and until all other similar applications have been considered. Moreover, until 1st March, 1962, preference must be given to the Board and to any other applicant who can satisfy the authority that either he or a predecessor in title to his business was acting as a bookmaker wholly or mainly within the area comprised in or adjoining the authority's area for the whole or a substantial part of the period of twelve months ending with 2nd November, 1959.

Entitlement to hearing

The authority may grant or renew a licence without hearing the applicant if there are no objectors, but otherwise the applicant and any objector who has lodged written objection are entitled to be heard in person, by counsel or by solicitor and representations may be made on behalf of the police. The authority may refuse to entertain any late objection and in any case may not hear it, unless the applicant

agrees, until the objector has given both the clerk and the applicant a brief statement in writing of the grounds of his objection and the applicant has been given an opportunity to consider it. The authority may, at their discretion, adjourn a hearing for any purpose, may take evidence on oath and may make such order for costs (expenses in Scotland) as they may think fit. These are to be recoverable summarily as a civil debt. The authority are bound to refuse an application if they are not satisfied that any applicant, other than the Racecourse Betting Control Board, will hold at the date on which the licence comes into force either a bookmaker's permit or a betting agency permit, that the premises are, or will be, enclosed and that there are, or will be, means of access between the premises and a street, not passing through other premises used for some non-betting purpose. In addition to these mandatory grounds for refusal the authority may, at their discretion, also refuse an application on the ground that—

(i) the layout, character, condition or location of the premises is not suitable for a licensed betting office ;

(ii) the grant or renewal would be inexpedient having regard to the demand for the time being in the locality for the facilities afforded by licensed betting offices and to the number of such offices for the time being available to meet that demand ;

(iii) in the case of a renewal the premises have not been properly used under the licence.

No statutory guidance is given as to the grounds which may properly be considered under (i), but it is submitted that intrinsic defects, such as inadequate lavatory accommodation or fire escape facilities, and extrinsic factors, such as parking facilities in the area, congestion to be caused by persons resorting to the premises, nuisance to occupiers of adjoining premises, proximity to licensed premises, schools, youth clubs, hostels or places to which criminals are known to resort, might reasonably be taken into consideration. Moreover, applications made before 28th February, 1962, by the Board or by a person entitled to preference in the granting of a licence, for the reasons mentioned earlier in this article, may be granted, notwithstanding an objection on any of these grounds, if the authority are satisfied that such ground for refusal can be rectified and will have ceased to exist before the licence falls to be renewed.

Refusal of application

If the authority refuse an application they must state the grounds on which they do so and forthwith notify the applicant of their refusal. He then has fourteen days in which to lodge notice of appeal to a court of quarter sessions having jurisdiction in the area with the clerk to the authority. The latter must, as soon as practicable after receiving notice of appeal, send to the clerk of the peace a statement of the decision and of the name and last known residence or place of business of the appellant and of any person who opposed the application before the authority. The clerk of the peace is then required to enter the appeal and to give at least seven days' notice of the date, time and place appointed for the hearing of the appeal to all parties who appeared before the authority, as well as to the authority themselves. The court of quarter sessions may, by its order, either confirm the refusal or grant or renew the licence on payment of the prescribed fee of £1, in the same way as the authority themselves could have done. No justice is allowed to act in the hearing or determination of an appeal from any decision in which he took part, and ss. 7 and 8 of the Summary Jurisdiction (Appeals) Act, 1933, apply to these appeals in the same way as they apply to an appeal from a magistrates' court. The court may make such order as to costs as it thinks fit and these are recoverable summarily as a civil debt. In Scotland appeal is to the sheriff having jurisdiction in the area.

Any betting office licence must be made on Form 7 prescribed by the Betting (Licensing) Regulations, 1960, and show the date on which it is to come into force. It normally expires on the 31st May following its issue, but an exception is made in the case of licences granted between 1st March and 31st May in any year, which are extended until the next succeeding 31st May. If an application for renewal has been made, but not considered through no fault of the holder, the licence will remain in force until the application and any consequential appeal has been heard, and, although not normally transferable, a licence will be automatically extended on the death of the holder in favour of his personal representatives, for six months, or longer, if the authority are satisfied this is necessary for the purpose of winding up the estate. Clerks to authorities are required to keep registers of licences issued in the prescribed form and these may be inspected during normal business hours by the police and by any other person on payment of one shilling.

In addition to his licence each bookmaker who decides to open a licensed betting office also needs to obtain planning permission from his local planning authority, even though the premises were previously used as an office, because user for the present purpose was specifically made development by the Town and Country Planning (Use Classes) (Amendment No. 2) Order, 1960 (S.I. 1960 No. 1761). There is no need to obtain planning permission before applying for a licence (or vice versa), though there would seem to be obvious practical advantages in doing so, and there is, of course, no need to have any legal estate in the premises before seeking either planning permission or a licence.

(To be concluded) E. W. J.

"THE SOLICITORS' JOURNAL," 23rd FEBRUARY, 1861

On the 23rd February, 1861, The Solicitors' Journal noted : " The loud complaints which for many years past have been made on the subject of the wholesale adulteration of food induced the Legislature to pass an Act last session for the purpose of putting an end to such practices. But it has been hitherto inoperative, and we fear that while it remains unaltered it is likely to continue so. It depends, in the first place, upon the vestries in London and on the town councils and boroughs generally to appoint an officer for the purpose of enforcing its provisions. If they do not choose to appoint such an officer, the Act must remain a dead letter. It would, no doubt, be competent for private parties to take proceedings on their own account, and possibly some public-spirited individuals may at times be found willing to incur the necessary trouble and expense. But this is a duty that the public at large will not willingly undertake. We would further observe that the Act, even if enforced, is singularly lenient in its provisions, for it only allows the publication of the offender's name in the newspapers after he has been twice convicted. Lastly, it allows medical drugs and medicines of every kind to be adulterated with impunity. We need not be surprised, therefore, that the Act has created much dissatisfaction and that it has been denounced . . . as a piece of clumsy and useless legislation."

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"TREASURE ON EARTH"

RECENTLY issued by the Conservative Political Centre is a booklet bearing the intriguing title "Treasure on Earth." It is a study of death duties by Brandon Sewill, Head of the Economic Section of the Conservative Research Department, and, like other C.P.C. publications, is a "personal contribution to discussion and not an official Party pronouncement."

The author points out that when Sir Stafford Cripps abolished legacy and succession duties in 1949 but more than compensated for this by raising estate duty so as to make the top rate 80 per cent. on estates over £1m., the admitted purpose of the increase in duty was to redistribute wealth. Mr. Sewill does not consider that death duties achieve this object as "they seem only to make the rich poorer without helping to make the poor richer." Nevertheless, since 1951, when Conservative Chancellors have been in charge of the Exchequer, they have made no very significant changes in death duties apart from the reliefs afforded some family businesses, the exemption from duty of estates between £2,000 and £3,000 and the relaxation in the five-year rule for gifts. Evidently Mr. Sewill thinks the time ripe for some downward changes and the object of his "contribution" is to discuss what priority should be given to reducing the duty and whether fundamental reform of its structure is desirable.

Complications and anomalies

Inevitably, part of the pamphlet is devoted to an examination of the complications and anomalies in which estate duty abounds. It is stated that, unlike taxes on income or expenditure, death duties serve mainly to reduce saving and not spending, and that as a nation we are to-day saving only about the same proportion of our national income as we were in the 1890's, while investment abroad is no more than 1 per cent. of national income as compared with 7 per cent. in the period 1907 to 1913 (a factor not without significance in the context of our present balance of payments difficulties). As rates of duty climb higher and higher it becomes less worth while saving at all, if the savings themselves are eventually taxed at penal rates, and there is also an increasing temptation to spend capital. Although only one person in a hundred pays duty at rates over 50 per cent., this feeling extends to many people whose estates become liable at lower rates. Moreover, unless those at work are always saving more for their pensions than those who have retired are spending from theirs, there is no net saving. In the main, the only way in which the nation can grow more wealthy is through the savings which one generation passes down to the next, and it is just these savings which death duties tend to inhibit.

Encouragement to save

The present overall position as regards spending and saving is thus summarised: those who have money to leave are encouraged to spend more, while those who receive reduced legacies as a result of death duties are able to spend less. Mr. Sewill considers what the effect would be if present rates of duty (which in 1958–59 brought in £187m.) were halved! He thinks that the "fortunate heirs would not spend their larger legacies" but that they would spend some, at least, of their extra income, and that a reduction in the rate of duty would at first sight increase demand and leave fewer goods available for others. This disadvantage, however, would be offset by the immediate fillip given to savings over the whole range of income, so that for the first generation a reduction in death duties might have comparatively little effect on spending. He visualises that the spending power of heirs would only increase gradually and that its full effect would not be felt until after a generation, while for a few years there might even be a net reduction in spending by the rich. It seems to be conceded, however, that this is a short-term view and that spending power would ultimately increase, but this possibility is not further discussed, presumably for the reason that some part of so large a loss resulting from the halving of estate duty would have to be made good in other ways.

Distribution of wealth

Taxes, it is said, can only help the poor directly if they enable the State to spend more on the National Health Service, on family allowances, or other benefits; and they can only do that in so far as they reduce the spending of other members of the community. If the main effect of death duties is to transfer wealth or savings to the State, they really only serve to keep down the amount of the National Debt. Over the years this may be of some benefit to the taxpayer in that the Exchequer has to pay less interest, though even that is likely to be counterbalanced by a reduction in receipts. As a means of distributing wealth death duties are thus said to be ineffective: they are a means of levelling down but not a means of levelling up and so can play no real part in the policy of raising living standards for all as opposed to the policy of pursuing equality for its own sake.

Another indictment of death duties is that they are probably easier to avoid than any other tax. The tax is "erratic, unfair and even capricious in its incidence," and children are penalised unless their parents take specific steps with the object of reducing their tax liability. Again, if share values happen to fall between the date of death and the time the executors come to sell the shares and pay the duty, there may be practically nothing left to distribute to the "heirs."

Alternative duties

So far what has been said makes pleasant reading indeed if one ignores the fact that a loss to the Exchequer of £94m. (on the basis of the 1958–59 yield of estate duty) has to be compensated somehow or other. Mr. Sewill does not ignore this loss entirely and he proposes to meet one-third of it by the re-introduction of legacy duty and succession duty. Legacy duty is justified on the ground that the more a man divides up his property the lower will be the rate of tax and therefore this tax will be better than estate duty (at present rates) for encouraging a wider distribution of wealth and for promoting a property-owning democracy. It is granted that in practice most people probably know to whom they want to leave their money and would not greatly alter their dispositions for the sake of saving a few per cent. on tax; also that it might be undesirable that a tax should influence the normal choice of how to leave one's money, or unfair to exempt from tax a man who left his money to a sufficient number of distant relatives but penalise one who left everything to his only son. To avoid these disadvantages but put a slight premium on the division of wealth and to a limited degree attune the tax to the ability of the recipient to pay, the following rates are proposed:—

Legacies up to £10,000, nil; £10,000 to £50,000, 5 per cent.; £50,000 to £100,000, 10 per cent.; £100,000 and over, 15 per cent.

A succession duty graduated according to the degree of relationship to the deceased is said to accord with a feeling of natural justice, to recognise the importance of the family, and to ensure that tax is paid where it hurts least. It is proposed on estates over £4,000 at these rates :—

> Surviving spouse or parents, nil ; children, brothers, sisters, 5 per cent. ; grandchildren, nephews, nieces, 10 per cent. ; anyone else, 15 per cent.

To prevent legacy and succession duties bearing too heavily on small estates, the two together are to be limited to not more than the new rate of estate duty applicable to the whole estate, so as to ensure that the three taxes together will in no case be higher than at present. It is claimed that the reduction in estate duty combined with the introduction of a small legacy duty and a small succession duty would help to ease some of the harshness of the present tax, but it is appreciated that this would involve consequential amendments in the present relief afforded to agricultural land and family businesses. It is recommended, too, that agricultural land should be held for five years before qualifying for the relief and that the business relief should be extended to shops and offices.

Other recommendations are that marginal relief for estate duty where an estate just exceeds the amount at which it becomes liable to a new tax rate should be 75 per cent. of the excess instead of the present 100 per cent., and that the National Land Fund (which is regarded as a "concealed means of backdoor nationalisation") should be wound up.

It is said that the cost of all the above changes would depend on "how people decided to distribute their property," but the estimated cost is given at about one-third of the present yield from estate duty : that is, over £90m. loss from the halving of estate duty, less about £30m. from the new legacy and succession duties, leaving a net loss of £60m. It is not explained how this sum is to be replaced but it is suggested (rather naïvely) that, if the stark demand of estate duty were replaced by three separate and lower taxes, it might well lessen the amount of avoidance at present practised and so reduce the cost to the Exchequer. Moreover (so the argument runs), the reductions should stimulate saving and so in the long run mean only a slight increase in the level of demand on the nation's resources. In the short run there would be an immediate and widespread increase in saving, and if the Government could succeed in borrowing this saving there would be no danger of inflation and the changes "could be introduced at any time."

Commentary

It will be apparent at once that, in terms of cost alone, a saving in duty of the same amount could be achieved much more simply by a straight cut in estate duty of £60m. a year, apportioned over the whole range of duty ; while, generally speaking, exactly the same arguments could be adduced in favour of saving and non-avoidance in either case. There is, of course, no warrant for supposing (if such is the case) that legal avoidance schemes cost the Exchequer anything like £60m. a year and even less reason to suppose that the changes which Mr. Sewill puts forward would have any appreciable effect in lessening the wish to avoid paying duty whenever possible. In recent years ingenuity and desire in the realm of tax avoidance have shown a tendency to grow, even if opportunity is not quite keeping pace.

The case for the new proposals must therefore rest very largely on the ground that the incidence of the new taxes would be fairer all round or would serve the better to redistribute wealth. In this connection one cannot help feeling that Mr. Sewill has failed to make out a convincing case for the return of legacy duty and succession duty in preference to a straight cut in estate duty. It would seem that the yields from the two new taxes will not be less than formerly (despite the appellation "low") and it appears a little odd that succession duty should be charged at 5 per cent. in the case of children and nil in the case of parents.

If one looks at the table of estate duty for 1958–59 on p. 11 of the booklet, it will be seen that in that year nearly 47,000 estates, all in the £3,000 to £10,000 ranges and having an aggregate value of £264m., produced only £6m. in duty. This would seem to suggest that one very simple way of contributing to a redistribution of capital would be to increase the exemption limit to £10,000, which could be done at about one-eighth of the cost to the Exchequer. It could, indeed, be justified as a move to improve (indirectly) the standard of living at the lower end without entailing any diminution of that standard at the upper end (which is one of the desiderata put forward in the pamphlet). But it has also been pointed out by Mr. Sewill (and very rightly so) that, where the top rate of duty is 80 per cent., the balance of 20 per cent. can be quickly wiped out in a time of falling share values so as to leave the beneficiaries of even a millionaire with nothing at all. This serious defect in the present top rates of duty can also be remedied at minimum cost. On the basis of the 1958–59 yields a top rate of 65 per cent. (involving the abolition of the 70, 75 and 80 per cent. rates) would cost only £1·16m. and both changes combined could be effected at a cost of only £9·16m., which, of course, is far more nearly within the bounds of possibility than £60m. a year. This leaves nothing for the intermediate ranges, but their turn could come later as they are not, to quite the same extent, within the ambit of Mr. Sewill's criticisms of estate duty.

It can hardly be supposed that a return of legacy duty and succession duty would meet with a very warm welcome if only for the reason that the devil we know may be preferable to a triad of truncated and resurrected devils with whom we have still to be better acquainted. It may easily be arguable that with top rate duty at 80 per cent. it can hardly go higher with any pretence of circumspection, whereas there is always the danger (if precedent is anything to go by) that the temptation to raise any one or more of three "low" rates of estate duty, legacy duty or succession duty will not be inhibited for any reasons of political modesty. Indeed, Mr. Sewill himself (unconsciously perhaps) has sounded a warning by quoting Mr. Goshen, Conservative "shadow Chancellor" in 1894 (when the present estate duty was introduced), who pointed out that once progressive graduation was adopted there would be no standards by which the top rates of tax could be judged. Also, the present tendency of tax legislation is towards simplification (e.g., the review of penalties and the substitution of flat rates profits tax for the two-tier system), and Mr. Sewill's proposals run contrariwise.

Nevertheless, there will be few taxpayers who will not welcome the case which Mr. Sewill makes out for a reduction of death duties and makes out very well ; it is to be hoped that it will be instrumental in bringing about a reduction, albeit in a rather more simple way. As an economist, he naturally does not deal with any of the difficulties at present experienced by practitioners but some of these were mentioned by the present writer in two articles entitled "Reform of Estate Duty," which were published at 103 Sol. J. 141 and 163.

K. B. Edwards.

"The Solicitors' Journal"
Friday, February 24, 1961

ACCIDENTS

[From "Not Such an Ass," by Henry Cecil; to be published by Hutchinson on 6th March, 1961; price 15s.]

THERE are now five to six thousand people killed a year and hundreds of thousands injured on the roads. The public as a whole is responsible for these deaths and injuries, inasmuch as everyone makes use of motor transport in one way or another. Even a bedridden person uses motor transport, as much of his needs are brought to his home or the hospital where he lies by such transport. When someone is killed or injured by one of these lethal weapons (which everyone is directly or indirectly using) is it satisfactory that the decision whether or not damages are to be awarded in respect of such death or injury is to depend upon so many uncertainties? It is in many cases a complete gamble whether damages are to be recovered or not. The gamble depends on the presence or absence of witnesses and their reliability, and on the ability of the judge who tries the case to come to a correct conclusion. The accident probably happened in a split second. What are the chances that justice will be done?

Accidents which only involve material damage are far less important. It is quite true that cases about them are just as difficult of solution as cases of personal injury, but if a mistake is made no one is going to be ruined by it. If a man's leg has to be cut off as the result of a road accident, it is surely just that the public as a whole should compensate him for the loss of his leg, even if he was wholly or partly to blame himself—unless, of course, he was trying to commit suicide or, for other reasons, deliberately tried to have an accident.

Apart from these last cases (which would be very rare and which could be excepted from the general rule) would it not be more satisfactory that any person injured in a road accident should obtain fair compensation from public funds? The premiums already paid to insurance companies would partly provide the means from which to do this, and the rest could be obtained by increasing the amount payable by way of national insurance. Apart from the quite exceptional cases referred to, no one deliberately gets involved in an accident and the fact that everyone was automatically insured against the consequences of an accident would be unlikely to make people more careless. No one would give his life or even a leg for £20,000.

The amount to be paid as compensation could be fixed, as it is now, by a judge, or in the same way as industrial insurance claims are now handled. Probably a judge's decision would be better but, once the principle of national insurance against death or injury on the road was established, there would be no difficulty in fixing the method of computing the damages.

It may be said that there are just as many accidents in the home as on the roads. But in those cases the public as a whole is not responsible. And, furthermore, it is far easier to fix the blame. But the public, having decided to accept the killing of several thousand people a year on the roads, and the injury of hundreds of thousands, in return for the benefit it gets from road transport, ought to foot the bill for these deaths and injuries and not leave it in a great measure to chance as to whether the bill is to be paid at all.

Such national insurance might deprive the legal profession of a good deal of litigation, though there would still be the necessity to fix the damages. But, contrary to popular belief, lawyers do not strive to make business for themselves, and there was no outcry among them when workmen's compensation was abolished and industrial assurance took its place. If lawyers were satisfied that national insurance was a fairer way of dealing with claims for death and personal injury on the roads, they would certainly be ready to adopt the same attitude as they did towards workmen's compensation.

There is one further matter relating to accidents which is not a question of law at all. Everyone wants accidents to be reduced, but no one has yet produced any constructive suggestion to reduce them within any reasonable space of time. All kinds of suggestions are made for increasing penalties, removing licences and so forth. But general legislation can have no appreciable effect, if it will have any at all. In the first place, there are nothing like the number of police required to detect and prosecute more than a tiny proportion of those who commit offences on the roads. Secondly, juries are very chary of convicting motorists. If a man is convicted by a jury of driving while under the influence of drink he must be very drunk indeed. It will be remembered that under the original Act of Parliament a man had to be "drunk" before he could be convicted. This was altered because the court said "drunk" meant "drunk," and merely being under the influence of drink was not the same thing. But Parliament might have saved itself time and trouble. The words might be "dead drunk" as far as juries are concerned. And even then they might say to themselves: "The poor fellow was very tired, that's why he was lying in the back seat trying to steer with his feet. Not Guilty."

Moreover, many accidents are caused entirely through the fault of pedestrians, pedal cyclists, the parents of children and the owners of animals. Penal legislation would not make them any more careful.

What is required is to make every member of the community realise that if everyone (including pedestrians, cyclists, motorists, children and parents of children) took a little extra care the accident rate would drop heavily. No one wants these accidents and, if it were conclusively proved to the public that a little extra care would avoid them, there is at least a chance that the standard of everyone would improve.

Now there is a method by which this could be done. The cost would be trifling compared with the benefit to be gained, it would involve no legislation and would not alter the normal daily life of anyone. This is simply the appointment of a *National No-Accident Day*. Not a month or a week but *one day*. It could be a day announced, say, six to eight weeks in advance, on which it should be a point of honour with each member of the population that he or she should not be involved in an accident on that *one* day. There would be concentrated propaganda by the Press, T.V., radio, schools, churches, and the motoring and pedestrians' associations, etc., leading up to that *one* day. Is it too much to suppose that, on that one day, most people would take just a little more care than on other days? It would be too much to expect motorists to have posted on their windscreens a notice "I will not have an accident to-day," but it would be a nice idea, as such a motorist might feel a little foolish when his car was found embracing a lamp post.

The difference between this suggestion and local or even national safety weeks is obvious. In the first place a week is much too long. People could concentrate on being careful for a day, but not at present for a week.

Secondly, of course, local safety weeks do not appeal to those passing through the locality. But, if subjected to intensive propaganda for a short period (not for too long, that is why six to eight weeks is suggested—possibly four would be even better), is it not possible that just on that one day the average person (who, after all, does not want fifteen people to be killed every day) would take a little extra care? And, if he did, the result would probably be a marked drop in the accident rate on that day.

It is not suggested that, if the test were successful, the annual accident rate would immediately drop, but would not an important step have been taken in that direction by proving to the public what could be achieved? And, at the worst, if only seven lives and hundreds of bodies were saved that day, it could hardly be counted a failure. The cost in advertising would have been well spent.

As far as one can see, this is the only positive step which can be taken and can be taken at once to halt the accident rate. Is it not worth a trial? If it failed completely what harm would it have done? No one is going to behave more recklessly or more carelessly just because a National No-Accident Day was a failure.

What argument is there against the suggestion? Only the fact that this idea was tried out two years running in the U.S.A. and failed each time. Of course that is a matter to be considered, but the U.S.A. is a completely different country from this one. It is vastly larger and divided into states, and there is a great deal of independence among the states. They have not the same national Press or broadcasting systems as we have. It may well be far harder for the central government to reach each individual in the country there than it is here. In those circumstances it could well be that an attempt to run a national campaign there might fail. If it had failed in one of the Scandinavian countries there might be more reason for doubt as to its success. If this country hesitates to try it itself, why could it not join with the Scandinavian countries, put the names in a hat, and agree that one country should try the experiment?

There is so little to lose and so much to gain that it is difficult to understand why the suggestion has not been put into practice. Schemes for better roads are talked about and slowly put into operation, advice is given to the motorist and to the pedestrian, letters are written to the papers suggesting increased fines, disqualification and imprisonment—but here is one positive suggestion which might do good immediately. No other suggestion which can be put into immediate effect has ever been made.

No doubt it is considered in some quarters that the public is too apathetic to respond and that everyone now accepts thousands of deaths and hundreds of thousands of injuries on the roads as a normal incident of modern existence. But ought such acceptance to be acquiesced in? Is this not one chance of trying to break it down? An attempt to break it down by this method is at least better than leaving it to become a permanent feature of modern life.

Landlord and Tenant Notebook

STATUTORY NOSTALGIA

INTEREST in the Rent Restrictions Acts may be on the wane, but the decision in *Tickner* v. *Hearn* [1960] 1 W.L.R. 1406 (C.A.), is worth studying if only because it shows that the *alio intuitu* retort is not always available when the interpretation of one enactment is sought to be applied to another. The question was whether a statutory tenant, who had had the misfortune to become a mental patient, had, by reason of her absence, lost the protection of the Acts; this involved consideration of the question whether she had not only a hope, but also a prospect, of being able to return to the premises claimed and live in them. And Ormerod, L.J., referred, early in his judgment and with apparent approval, to Asquith, L.J.'s definition of "intention" in *Cunliffe* v. *Goodman* [1950] 2 K.B. 237 (C.A.).

The issue in that case was whether a tenant, sued for dilapidations, could claim the benefit of the Landlord and Tenant Act, 1927, s. 18 (1). The allegation was that the premises were shortly after the termination of the tenancy to be pulled down, or such structural alterations made, etc. It appeared that the landlord had contemplated so doing, but was, owing to the restrictions on building then in force, unlikely to be able to execute the work. Asquith, L.J., gave us: "An 'intention,' to my mind, connotes a state of affairs which the party 'intending' does more than merely contemplate; a state of affairs which, on the contrary, he decides, so far as in him lies, to bring about, and which, in point of possibility, he has a reasonable prospect of being able to bring about by his own act of volition."

This definition proved to be useful when the Landlord and Tenant Act, 1954, Pt. II, had provided business tenants with some security of tenure but entitled landlords to resist applications for new tenancies on the grounds of intention to demolish and reconstruct, etc., or to use the premises themselves (s. 30 (1) (*g*) and (*h*)). In the few years of their existence, these provisions have occasioned a number of authorities on the requisites of intention, and among them are cases in which *Cunliffe* v. *Goodman* has been applied. In *Reohorn* v. *Barry Corporation* [1956] 1 W.L.R. 845 (C.A.), Denning, L.J., put it succinctly: "A man cannot properly be said to 'intend' to do a work of reconstruction when he has not got the means to do so. He may hope to do so; he will not have the intention to do so."

Prolonged absence

The facts of *Tickner* v. *Hearn* were that the first defendant, statutory tenant of the house claimed, had had, while on a visit to a daughter, a mental breakdown. This was in June, 1954, and she had been admitted, some weeks later, to a mental hospital as a schizophrenic suffering from personal delusions of persecution. She was then seventy-three years of age. The second defendant was her other daughter, who continued to live in the house. After more than five years, the mother was regraded to voluntary status; which meant that she would be entitled to leave at seventy-two hours' notice. The medical evidence was to the effect that she regarded the house claimed as her home, that her condition

had slightly improved, and that it was unlikely that she would ever leave hospital.

The county court judge held that the effect of the long absence was to cast upon the defence the burden of proving what he at one point called "an intention to return or conversely no intention to leave," and at another "that there had been no real abandonment of possession," and, while considering the case a borderline one, found that that onus had been discharged. The landlords appealed, the defendants cross-appealed; the latter complaining of the placing of the burden of proof.

The onus

The importance of this question was that the landlords sought to establish that the first defendant was incapable of forming any intention at all; their plea that she had not formed the intention was an alternative. They admitted that up to the time of the breakdown she had had the intention of returning to the house; but contended that a long absence entitled them to possession unless the tenant proved an intention to resume residence.

Apart from the question whether the evidence justified a finding that such an onus had been discharged, the Court of Appeal considered that it was merely a "provisional onus." The tenant's intention in absenting himself has to be taken into consideration. This was brought out by Willmer, L.J.: ". . . once the tenant's absence is explained by proof of facts which do not of themselves involve an actual intention on his part to abandon possession, the plaintiff landlord is left where he started, and he must prove affirmatively that the tenant has, in fact, abandoned possession." The reason why the tenant left did not arise in *Skinner* v. *Geary* [1931] 2 K.B. 546 (C.A.), the decision which created the rule by which protection is lost in these cases; but Scrutton, L.J., gave us the often cited example of a sea captain as typifying a tenant who may be away for months but who intends to return. There is no reason why intention to return should not be evidenced by circumstances of departure in cases in which absence is found to be not only prolonged but indefinite. Ulysses left his home "for the duration," which turned out to be a matter of ten years; his efforts to return took up another ten years, and, if his sincerity had ever been doubted, the reason why he originally left would have strengthened his claim to *animus revertendi*. Absence on war-time employment has twice been held, by Sheriff Courts in Scotland, not to entail loss of protection: *Allen's Trustees* v. *Gardyne* 1944, S.L.T. 22, and *Baillie* v. *M'Lauchlan* 1945, S.L.T. 21; in England, the point has been taken to the Court of Appeal, and similarly decided: *Newlands Bros. and Mumford* v. *Radford* (1944), 143 E.G. 227 (C.A.).

Abandonment

A fine distinction was drawn by Upjohn, L.J., between abandonment of possession and intention to return. The learned lord justice considered that it would be easy to postulate circumstances where it could not be said that a tenant had abandoned possession, yet his intention to return was so vague and undetermined that he could not be said to have established an intention to return for the purposes of the Rent Acts; and later in his judgment the learned lord justice pointed out that it is the fact of occupation that matters, so that if a tenant is out of occupation "for some time" he must at least prove an intention to return. Upjohn, L.J., also considered that some of the reported cases had gone very far in the protection of the tenant, but agreed that the county court judge had found that there was a real possibility of the first defendant returning within a reasonable time.

The only other reported cases, I believe, in which mental disease has been the occasion of such a claim are the county court decision in *Hamilton* v. *Reay* [1954] J.P.L. 121, in which the landlord recovered possession on showing that the chances of return were negligible, and *Greenway* v. *Rawlings* (1952), 102 L.J. 360, in which the landlord failed, the circumstances being very similar to those of *Tickner* v. *Hearn*.

Prison

While Asquith, L.J.'s "well known" definition of "intention" in *Cunliffe* v. *Goodman*, *supra*, was referred to, far more was said about the same lord justice's judgment in *Brown* v. *Brash and Ambrose* [1948] 2 K.B. 247, which gave us a very thorough analytical examination of the question of absence and intention to return in Rent Act cases. But, as Willmer, L.J., mentioned, the actual decision in that case was based on the fact that the tenant, who sued for possession and trespass after the landlord had resumed possession, no longer retained a *corpus possessionis*: this because during his absence in prison his mistress had moved out, with the children and the furniture.

The case is not, therefore, authority for the proposition that if a statutory tenant should be enjoying statutory security in one of H.M. prisons the landlord is automatically entitled to possession. In the recently published "Lord Eldon's Anecdote Book" (reviewed at 104 Sol. J. 978) there are references to gaols having recently been converted to palaces in which offenders loved to reside, many of the "lower orders" being anxious to winter in them; if that were true to-day, imprisonment might one day produce another of those intriguing "two homes men" cases: in Scotland, a tenant's claim to retain a holiday home of which he had held a yearly tenancy failed in *Menzies* v. *Mackay* 1938, S.C. 74. But if it be not true, distinctions can be drawn; the general proposition that protection is lost by imprisonment was negatived in *Maxted* v. *McAll* [1952] C.P.L. 185 (C.A.), and Lord Evershed, M.R., in the course of his judgment in *Bushford* v. *Falco* [1954] 1 W.L.R. 672 (C.A.), equated a three months' sentence with a flood compelling the tenant to leave home temporarily. In the county court case of *Paynter* v. *Clegg* (1951), 1 C.L.C. 8823, a statutory tenant's son who had been sent to prison two months before her death was held not to satisfy the residential qualification for "transmission," the judicial reasoning being that his absence, though involuntary, was the result of a voluntary act; but whether the *animus revertendi* test should not have applied is, I submit, arguable.

R. B.

THE SOLICITORS ACT, 1957

Paul Hayward Counsell, of P.O. Box 2144, Ndola, Northern Rhodesia, Solicitor, having, in accordance with the provisions of the Solicitors Act, 1957, made applications to the Disciplinary Committee constituted under the Act that his name might be removed from the Roll of Solicitors at his own instance on the ground that he desires in due course to be called to the Bar, an Order was, on 9th February, 1961, made by the Committee that the application of the said Paul Hayward Counsell be acceded to and that his name be removed accordingly from the Roll of Solicitors of the Supreme Court.

HERE AND THERE

STRANGE DISTINCTION

SOME interest has been aroused by the recent ruling in the Divorce Court that it was not unreasonable for a gentleman, first, to wish his son also to receive the education of "an English gentleman" and, secondly, to act on the assumption that an income of £3,000 a year will not to-day stretch beyond the production of one only of these craftsman-designed, hand-made articles of quality and connoisseurship. This judgment inspired a somewhat restive leading article in the *Daily Mail* in the course of which the writer, feeling rather fumblingly for a formula which would net the exact nature of a gentleman, ventured rather unwarily on an illustration "noting the difference between solicitors (who tended not to be gentlemen) and barristers (who usually were), solicitors being people who wash at night and barristers being people who wash in the morning." I cannot imagine where the writer can have laid hold of that little piece of legal folklore or natural history. He has clearly got out of his depth in the bath tub and it is little that he can know of either of the branches of the legal profession. The order of the bath or the order in which they bathed has never (so far as I know) been treated as the line of demarcation between them. Throughout the 19th century, the golden age of the public school gentleman, the Inns of Court, those ancient strongholds of the Bar, then still largely residential, were notoriously defective in the amenities of plumbing, and the well-to-do solicitor, in some commodious modern residence, was far more likely to command the equipment for cleanliness by immersion, whether at night or in the morning. There has never been any specific ruling that barristers were in any special sense called to the bath.

GENTLEMEN BY STATUTE

IN the entire distinction which he attempts to draw the leader writer is hopelessly on the wrong tack. If we are going to be socially pedantic about this sort of thing, the accepted difference is that barristers are "esquires" and solicitors are "gentlemen"—by Act of Parliament too. Dickens was a very knowledgeable and accurate, if unfriendly, witness to the ways of the lawyers and in Chapter 60 of "The Old Curiosity Shop" he makes Mr. Sampson Brass of Bevis Marks expostulate in a crisis: "I am of the law. I am styled 'gentleman' by Act of Parliament. I maintain the title by the annual payment of twelve pound sterling for a certificate. I am not one of your players of music, stage actors, writers of books, or painters of pictures, who assume a station that the laws of their country don't recognise. I am none of your strollers or vagabonds. If any man brings his action against me, he must describe me as a gentleman, or his action is null and void." Yes, but where is the Act? That was something of a puzzle until the Secretary of The Law Society, Sir Thomas Lund, worked it out four or five years ago. Coke in his Institutes provides a good starting point when he says, with regard to an Act of 1413 requiring the proper additions to be used in suits or actions: "... a man may have an addition of gentleman within the statute if he be a gentleman by office (though he be not by birth) as many of the king's household and of other lords be, and clerks being officers of the King's Court of Record." Attorneys in the Court of Common Pleas had been declared officers of the court, by an Act of 1403. Other attorneys and solicitors were, however, left out in the cold of non-gentility until an Act of 1729 directed them to be enrolled as officers of the court. The cumulative effect of these Acts, it is claimed, gives all solicitors a statutory right to the title of gentleman, and, until there is an authoritative ruling to the contrary, let them maintain it against all the ink in Fleet Street.

GENTILITY AT SEA

NOT content with kindly giving the lawyers a classification, the same leader writer sails into yet deeper water with the Royal Navy, maintaining that seamen were never gentlemen and gentlemen never seamen. Landlubber though I am, I am inclined to doubt that too. In "Peter Simple," which draws such a vivid picture of naval life in the Napoleonic Wars, Mr. Chucks, the boatswain, always liked to consider himself a gentleman. "He attempted to be very polite, even when addressing the common seamen, and, certainly, he always commenced his observations to them in a very gracious manner: but as he continued he became less choice in his phraseology ... As a specimen ... he would say to a man on the forecastle, 'Allow me to observe, my dear man, in the most delicate way in the world, that you are spilling that tar upon the deck, a deck, sir, if I may venture to make the observation, I had the duty of seeing holystoned this morning. You understand me, sir, you have defiled His Majesty's forecastle. I must do my duty, sir, if you neglect yours; so take that, and that, and that, you damned haymaking son of a sea cook. Do it again, damn your eyes, and I'll cut your liver out!" To the new midshipman he explained: "You must observe how gently I always commence when I find fault. I do that to prove my gentility; but, sir, my zeal for the service obliges me to alter my language to prove in the end that I am in earnest. Nothing would afford me more pleasure than to be able to carry on the duty as a gentleman, but that's impossible." Mr. Chucks had some reason to suspect that he was the by-blow of a gentleman and preferred that to being the legitimate offspring of a boatswain and his wife. Peter at first thought his gentlemanly aspirations absurd, but his Irish fellow-midshipman O'Brien disagreed: "When did any of his shipmates ever know Mr. Chucks do an unhandsome or mean action? Never—and why? Because he aspired to be a gentleman and that feeling kept him above it."

MODELS

AND that brings us back to the point of the gentleman in the Divorce Court. G. K. Chesterton was right (as always) when he wrote of "the dangerous lure of the gentleman," the absurdity of the illusion which fifty years (and less) ago made it high praise for a working man to say, "You're a gentleman!" It sprang from the myth of the innate moral superiority of what were called "the upper classes" and it would have been just as sensible to say "You're a Viscount." True, but, allow for the illusion; it still inspired all sorts and conditions of men to behave as they thought gentlemen always behaved, and now that the myth of the gentleman has vanished it has left a vacuum which has been promptly filled by the myth of the gun-toting hoodlum on the "telly," the myth of the latest exhibitionist "pop singer" or the myth of the sharp-elbowed "success" tycoon. In common sense and for workable human relations which really does make the better model? I think most clients calling on their solicitor would rather find the image of a gentleman sitting behind the desk than any of the other three.

RICHARD ROE.

NOTES OF CASES

The Notes of Cases in this issue are published by arrangement with the Council of Law Reporting, and, in general, full reports will be found in the Weekly Law Reports. An asterisk against a case indicates that there is no present intention of reporting it in the Weekly Law Reports.

Judicial Committee of the Privy Council

CONTRACT: SALE OF SAWMILL: ANCILLARY TERMS: SPECIFIC PERFORMANCE

Australian Hardwoods Pty., Ltd. *v.* Commissioner for Railways

Viscount Simonds, Lord Reid, Lord Radcliffe, Lord Tucker, Lord Guest

16th February, 1961

Appeal from the Supreme Court of New South Wales.

The respondent, the Commissioner for Railways, New South Wales, who held an occupation permit and a sawmill licence, both issued by the Forestry Commission, by virtue of which he was entitled to occupy land and operate a sawmill in Bril Bril State Forest, entered into an agreement on 3rd May, 1956, with the appellant, Australian Hardwoods Pty., Ltd., under which the company was, *inter alia*, to take over the operation of the sawmill, to hold the buildings and plant on lease or hire at a rent, to receive through the respondent a supply of millable timber from the Forestry Commission, and to sell the resulting sleepers and sawn timber to the respondent. The agreement provided for its determination on three months' notice by either side on breach of any of its provisions. Clause 9 (*a*) and (*b*) gave the company an option to purchase the sawmill for "cash," and also provided by sub-cl. (*c*) that in the event of purchase the respondent would request the Forestry Commission to transfer to the company the occupation permit and sawmill licence and to continue to the company the supply of milling timber. The respondent gave three months' notice of determination of the agreement on the ground of breaches committed by the company, but between the date of that notice and its expiry the company had paid money in cash in purported exercise of the option to purchase and had called on the respondent to implement the provisions of cl. 9 (*c*). In its action the company claimed, *inter alia*, a declaration that the option to purchase had been validly exercised, and specific performance of the provisions in cl. 9 (*c*). Its claim failed before the trial judge and, on appeal, before the Supreme Court of New South Wales. The company appealed.

LORD RADCLIFFE, giving the judgment, said that, assuming, without deciding, that the company did purchase the sawmill under the option, it was not entitled to any equitable relief in respect of the provisions of cl. 9 (*c*). As a contractual obligation it was impossible to regard cl. 9 (*c*) as a mere appendage of the exercise of the option under sub-cll. (*a*) and (*b*) and as something to be performed irrespective of the observance and enforcement of the rest of the obligations under the agreement. The agreement having been validly terminated, the respondent was by that fact discharged from compliance with cl. 9 (*c*), which was essentially part of a working scheme which had become abortive. Nor was the company entitled to the equitable relief of specific performance of cl. 9 (*c*), for it was at the time of the notice of termination in breach of its own obligations, and could not show, since its breaches had resulted in the termination, that it was ready and willing to perform its share of the agreement. Appeal dismissed.

APPEARANCES: *Douglas Staff*, Q.C., and *P. Powell* (both of New South Wales Bar) (*Farrer & Co.*); *N. A. Jenkyn*, Q.C., and *Hermann Jenkins* (both of New South Wales Bar) (*Light & Fulton*).

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law]

House of Lords

INCOME TAX: SAND PIT ROYALTIES: ASSESSMENT

Verdin and Others *v.* Coughtrie

Viscount Kilmuir, L.C., Lord Denning, Lord Morris of Borth-y-Gest and Lord Hodson

13th February, 1961

Appeal from the Court of Appeal ([1960] Ch. 475; 104 SOL. J. 386).

By a lease dated 17th December, 1946, a sand pit was let for a term of twenty-one years from 25th March, 1946, at an annual surface rent of £10 and a royalty of 6d. per ton for all sand worked. In 1946–47 the royalties payable under the lease were just under £100, but they mounted steadily and in 1955–56 were £850, an average of about £390 a year. At first the sand pit was not separately assessed to Sched. A, but for the year 1953–54, following the decision in *Russell* v. *Scott* [1948] A.C. 422, it was assessed to Sched. A tax in the sum of £3 5s. and assessments of £5 and £1,000 in respect of excess rents and royalties respectively were made under Sched. D. On appeal the General Commissioners held that the royalties were within s. 175 of the Income Tax Act, 1952, and should be treated as excess rents under Sched. D, and they altered the assessment to £35 in respect of the dead rent and £646 in respect of the actual royalties received in that year, less the Sched. A assessment, the net aggregate figure being £681. The taxpayers appealed. Upjohn, J., reversed the decision of the commissioners. The Court of Appeal, reversing his decision, held that the assessment under s. 175 was a yearly one and the excess rents should be assessed in reference to the actual rent, plus royalties received, without any valuation on Sched. A principles, except for the purpose of deductions and allowances. The taxpayers appealed.

VISCOUNT KILMUIR, L.C., said that from an analysis of s. 175 (1) one could not escape from the following conclusions: (1) One was directed to the year of assessment. (2) One proceeded to the rent actually payable. (3) Having reached the figure of the rent actually paid, one had to consider whether it was the true rent. At this point one had to look at "the other terms of the lease," but "in accordance with the provisions of Pt. III of this Act," i.e., one had to consider s. 86, which dealt with tenants' rates paid by the landlord and owner-occupier, and s. 88, which was concerned with cases where the rent was not the true consideration but by reason of other terms of the lease an adjustment must be made. (4) The fourth step was to make the reduction for collection also in accordance with Pt. III of the Act. From beginning to end one must look at the actualities of the year of assessment. The appeal should be dismissed.

The other noble and learned lords agreed that the appeal should be dismissed. Appeal dismissed.

APPEARANCES: *H. H. Monroe*, Q.C., and *R. Buchanan-Dunlop* (*Peake & Co.*); *Borneman*, Q.C., and *Alan S. Orr* (*Solicitor of Inland Revenue*).

[Reported by F. H. COWPER, Esq., Barrister-at-Law]

Court of Appeal

PLAINTIFFS MUST PAY COSTS FOR *QUIA TIMET* ACTION BROUGHT PREMATURELY

*** Lemos *v.* Kennedy Leigh Development Co., Ltd., and Another**

Lord Evershed, M.R., Upjohn and Pearson, L.JJ.

13th February, 1961

Appeal from Lloyd-Jacob, J.

The plaintiffs asked the defendants, who were their neighbours, to cut down a row of poplar trees planted in 1957 lest their roots should cause damage to the plaintiffs' property. The defendants at first said that no damage could occur for at least twenty years, but in December, 1957, they said that a careful watch would be kept and preventive action taken if required. In January, 1959, the plaintiffs again asked for the trees to be cut down; the defendants made the same reply as in December, 1957. The plaintiffs, without inspecting the trees or finding out the degree of actual risk, issued, in July, 1959, a writ *quia timet* asking for an injunction to restrain alleged threat of damage to their property by the tree roots. Expert evidence was given that damage might occur by 1962, and the defendants then volunteered an undertaking that they would, not later than May, 1962, take down trees which might cause damage. They also showed that before the trees were planted their tap roots had been removed and their lateral growing roots cut to minimise risk of damage. The trial judge held that the apprehended danger was not imminent and dismissed the plaintiffs' action with costs. The plaintiffs appealed.

LORD EVERSHED, M.R., said that the appeal was on the material question of the order as to costs, which in this case was not simply discretionary. The test whether a *quia timet* action was rightly brought depended on the imminence of the apprehended danger. The question whether the order for costs was rightly made against the plaintiffs depended on whether the judge rightly decided that the action was premature. There was no imminence of danger at the date when the writ was issued, though there was future risk if nothing was done. The plaintiffs' failure to take obvious steps to find out with any degree of accuracy what the risk was at the date of the issue of the writ was against them. Accordingly, when the writ was issued it was not justified, because the plaintiffs should not at that date have feared imminent danger.

UPJOHN and PEARSON, L.JJ., delivered concurring judgments. Appeal dismissed.

APPEARANCES: *Peter R. Oliver* (*Holman, Fenwick & Willan*); *S. W. Templeman* (*Stanley Brent & Co.*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

SET-OFF OF " £200 LESS TAX " EQUALS £115

Butler *v.* Butler

Pearce, Harman and Davies, L.JJ. 13th February, 1961

Appeal from Collingwood, J.

In 1957 a wife's proceedings concerning a house under the Married Women's Property Act, 1882, were stayed on terms embodied in a master's order that the wife should buy the property for £610, paying the husband £150 within 28 days, the remainder of £460 " to be set off by instalments not exceeding such amount as may be agreed or awarded " to the wife " by way of alimony or maintenance." The wife paid the £150. Later she obtained an order for maintenance at the rate of " £200 a year less tax." Thereafter the husband gave the wife tax deduction certificates for £85 each year (the tax on £200 at the standard rate) and credited her with £115 a year against the debt of £460. The wife used the certificates to obtain rebates of tax. In March, 1960, the wife claimed arrears of maintenance, contending that the amount to be set off against her debt was £200 a year and that on that basis she had discharged it. The husband contended that the amount to be credited to her was only £115 a year. The trial judge held that the wife was entitled to a set-off of £200 a year and he gave judgment for the wife for arrears of maintenance. The husband did not pay, and on a summons by the wife for his committal for contempt the judge made an order for his committal, but suspended it, giving leave to appeal.

PEARCE, L.J., said that the effect of s. 169 (1) (*d*) of the Income Tax Act, 1952, was that if £200 less tax had to be paid to the wife she had to allow the husband the £85 tax deducted by him, and he was thereby acquitted and discharged of the £85 representing that deduction. The trial judge's conclusion ignored the words " less tax "; but one could not ignore the significance of s. 169 (1) (*d*), the effect of which was that under the maintenance order an annual order for " £200 less tax " was discharged by paying only £115 to the wife and £85 to the Revenue. Further, the words in the master's order, " amount awarded to the wife " must be construed to mean the amount the husband would have to pay the wife in cash. So read, the parties' bargain embodied in the master's order was sensible and just and accorded with the Act of 1952. The wife was not entitled to any larger set-off than £115 under that order; there were no arrears of maintenance; the committal order must be discharged; and the appeal must be allowed.

HARMAN, L.J. delivered a concurring judgment.

DAVIES, L.J. agreed. Appeal allowed.

APPEARANCES: *Frank J. White* (*Gamlen, Bowerman & Forward*, for *Lovegrove & Durant*, Windsor); *J. B. Gardner* (*Cartwright, Cunningham*, for *T. W. Stuchbery*, Windsor).

[Reported by Miss M. M. HILL, Barrister-at-Law]

ROYAL COLLEGE OF MUSIC EXEMPT FROM RATING

Cane (Valuation Officer) *v.* Royal College of Music

Pearce, Harman and Davies, L.JJ.

14th February, 1961

Appeal from the Lands Tribunal.

A college founded by royal charter in 1883 for the promotion of musical instruction and the encouragement of music as an art was supported throughout its history by an annual flow of moneys from subscriptions, gifts for scholarships or prizes for pupils, gifts in kind, legacies with or without conditions, funds given to trustees to make annual payments, and government grants. In 1898 the college was held exempt from rating as a society " instituted for purposes of . . . the fine arts exclusively " within s. 1 of the Scientific Societies Act, 1843; but in 1956 the rating authorities sought to have its hereditament assessed, contending that the college was not " supported wholly or in part by annual voluntary contributions " within the proviso to s. 1.

PEARCE, L.J., said that the college was within the spirit and intention and the literal wording of the Act of 1843 since it was supported " in part by annual voluntary contributions." It was entitled to the exemption, and the temple of Calliope was not a hereditament within the Rating and Valuation Acts.

HARMAN, L.J., delivered a concurring judgment.

DAVIES, L.J., agreed. Appeal allowed.

APPEARANCES: *Ronald Bell* (*Boodle, Hatfield & Co.*); *W. L. Roots*, Q.C., and *J. Raymond Phillips* (*Solicitor, Inland Revenue*); *Reginald W. Bell* (*Allen & Son*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

MINES: WHETHER OPENCAST MINING INCLUDED FOR DRAINAGE RATE

South Staffordshire Mines Drainage Commissioners *v.* Grosvenor Colliery Co., Ltd.

Sellers, Willmer and Donovan, L.JJ. 14th February, 1961

Appeal from Winn, J.

The defendants owned and worked an opencast mine from which they extracted coal and fireclay; the plaintiffs claimed that they were entitled to levy on the defendants a general drainage rate payable under s. 23 of the South Staffordshire Mines Drainage Act, 1878, for the years 1954–1958, in respect of the tonnage of minerals taken from the defendants' mine. Section 23 provides: "The commissioners shall continue to assess and levy upon the occupiers of mines . . . a rate to be called . . . 'the General Drainage Rate' . . . in respect of all minerals gotten from mines within the drainage area . . ."

SELLERS, L.J., said that the issue was whether or not the defendants' opencast working was a mine; the defendants contended that their working of the area in question was not a mine because there was no underground working at all, and that "mine" in the Act was used in the ordinary sense which meant an underground working. In his opinion the effect of the Act was to impose this liability on all minerals extracted, there was no exception in respect of surface working, and accordingly s. 23 imposed liability to this rate on the defendants.

WILLMER, L.J., dissenting, said that a strict construction should be applied to the word "mine," and he found no section in the Act of which it could be said that it must have intended to include opencast mining.

DONOVAN, L.J., delivered a judgment concurring with Sellers, L.J. Appeal dismissed.

APPEARANCES: *G. R. Rougier*, Q.C., and *Lord Vaughan* (*Stooke-Vaughan, Higgs & Webster*, for *Higgs & Sons*, Brierley Hill, Staffordshire); *Harold Willis*, Q.C., and *Patrick Stirling* (*Sharpe, Pritchard & Co.*, for *Underhill Willcock & Taylor*, Wolverhampton).

[Reported by Mrs. IRENE G. R. MOSES, Barrister-at-Law]

DOCKS RUN AT A LOSS: "NIL" VALUATION ON PROFITS BASIS

British Transport Commission *v.* Hingley (Valuation Officer)

Pearce, Harman and Davies, L.JJ. 16th February, 1961

Appeal from the Lands Tribunal.

The tribunal, following normal practice in relation to a public utility undertaking, assessed a docks undertaking, part of the nationalised transport undertaking, which had been run at a loss for many years, on the so-called "profits basis," the hypothesis adopted in such cases to comply with the requirements of s. 22 (1) (*b*) of the Rating and Valuation Act, 1925, and decided that the undertaking should be entered with a "nil" valuation in the relevant lists. The valuation officer appealed.

PEARCE, L.J., reading the judgment of the court, said that the "profits basis" had been consistently applied to public utility undertakings (including docks) whose object was to collect a revenue, and it would require strong reasons to justify any departure from it, particularly as in a recent case the Revenue had contended for valuation on that basis for neighbouring docks run at a profit and now sought, where docks had been run at a loss, to discard it. On the material before the court there was no indication of any surplus that made good the loss on these docks, nor evidence that any portion of British Transport stock or loan interest would be sufficient to overcome the large annual deficit. There were no special reasons here to justify a departure from the "profits basis" nor any material to justify a modification of a "nil" valuation. Appeal dismissed. Leave to appeal.

APPEARANCES: *Sir Jocelyn Simon*, Q.C., A.-G., and *Alan S. Orr* (*Solicitor, Inland Revenue*); *Patrick Browne*, Q.C., *Harold Marnham* and *Charles Fay* (*M. H. B. Gilmour*).

[Reported by Miss M. M. HILL, Barrister-at-Law.]

SETTLEMENT OF PART OF DIVORCED WIFE'S FORTUNE ON CHILD: FORM OF TRUSTS

Moy *v.* Moy and White

Pearce, Harman and Davies, L.JJ. 17th February, 1961

Appeal from Wrangham, J.

A husband applied under s. 24 (1) of the Matrimonial Causes Act, 1950, for an order that a settlement be made out of the property of his divorced wife for the benefit of himself and the child of their marriage. The registrar's report recommended that the wife transfer to trustees the sum of £8,000 out of a total fortune of £32,000 on discretionary trusts for the life of the child or such lesser period as the trustees should decide, the income to be applied during the years of his full-time education for his maintenance and education and/or for the benefit of the husband, and after the education period for the benefit of the child and/or the wife, with power during that latter period to apply part or the whole of the capital to establish the child in life, and with an overriding power to vest the whole fund in the child absolutely. In the event of the child's death under age the fund was to be transferred to the wife, but otherwise was for the child and his heirs absolutely. The judge to whom the report was referred confirmed it, but directed *inter alia* that the alternative interests of the husband and the wife in the income should be deleted. The wife appealed.

PEARCE, L.J., said that the judge had applied the right principles in making the child, who was the chief loser by the break-up of the marriage, the primary consideration; but difficulties of machinery arose from his deletion of the alternative interests of husband and wife in the income. If the boy was the sole object of the discretion, he could, as soon as he was twenty-one, insist on the trustees paying him all the money; moreover, if he died after he was twenty-one the money would go to the husband. That was not fair. Again, as there was no power to accumulate, the income, before the boy reached the expensive stage of his education, would go to the husband and not, as really intended, to the boy. The order should accordingly be varied to make the boy the primary object of the discretion, but there should be added to the settlement the husband as a discretionary alternative recipient during the boy's infancy and the wife thereafter. The age of twenty-one should be substituted as the transition period for the end of full-time education; and after the child was twenty-five the income should be paid to the wife with remainder to the child, the trustees to have during that time power to advance the whole. If the child died while his mother was alive, and without leaving a widow or issue, the whole of the capital should revert to the mother.

HARMAN, L.J., concurring, said that there should be added a trust to accumulate income until the boy was twenty-one.

DAVIES, L.J., concurred. Appeal dismissed with costs. Order to be varied accordingly.

APPEARANCES: *Peter Rawlinson*, Q.C., and *W. R. Merrylees* (*Lewis & Dick*, for *Dobson & Sutcliffe*, Chichester); *James Stirling*, Q.C., and *A. B. Hollis* (*Berrymans*).

[Reported by Miss M. M. HILL, Barrister-at-Law]

Chancery Division

PASSING OFF "SPANISH CHAMPAGNE" AS CHAMPAGNE

J. Bollinger and Others *v.* Costa Brava Wine Co., Ltd.

Danckwerts, J. 16th December, 1960

Action.

The plaintiffs, twelve companies incorporated under French law, suing on behalf of themselves and all other persons producing wine in the Champagne district of France which was supplied to England and Wales, claimed injunctions restraining the defendants, a company incorporated in England in June, 1956, from applying the trade descriptions "champagne" or "Spanish Champagne" to wine made in Spain from grapes grown in Spain, and from passing off as wine produced in the Champagne district of France wine not so produced by selling it as "Spanish Champagne" or under any other name including the name "champagne." The plaintiffs alleged that their wine was a naturally sparkling wine produced in the Champagne district by a process of double fermentation from grapes grown in the district; that it had long been known to the trade and the public in the United Kingdom as "champagne," and as such had acquired a high reputation, and that a member of the trade or public would understand "champagne" to mean the plaintiffs' wine.

DANCKWERTS, J., said that the evidence had plainly established that "champagne" in this country meant the product produced in the Champagne district of France by the plaintiffs and other growers and shippers of that district and had never in this country come to mean a type of wine. The defendants' wine therefore was not champagne and it was untruthful to describe it as such. There was also a considerable body of evidence that persons whose life or education had not taught them much about the nature and production of wine, but who from time to time wanted to purchase champagne as the wine with the great reputation, were likely to be misled by the description "Spanish Champagne." This was not a case of innocent passing-off; the defendants intended by using the name "Spanish Champagne" to attract the goodwill connected with the reputation of champagne to the Spanish product.

APPEARANCES: *Geoffrey Lawrence*, Q.C., *R. O. Wilberforce*, Q.C., *P. J. Stuart Bevan*, *R. K. Kuratowski* and *E. G. Nugee* (*Monier-Williams & Keeling*); *Sir Milner Holland*, Q.C., *F. E. Skone James* and *S. H. Noakes* (*Summer & Co.*).

[Reported by Miss PHILIPPA PRICE, Barrister-at-Law]

PAYMENTS FOR DEPRECIATION IN VALUE OF SETTLED LAND: APPORTIONMENT OF INTEREST ON PAYMENTS

***In re* Sneyd, deceased**

Pennycuick, J. 13th February, 1961

Adjourned summons.

By his will a testator's settled estates were held on trust to pay the income to *A* for life and after his death to *B* for life with remainder over. *A* died on 25th December, 1949, *B* on 21st August, 1950. During *A's* life sales of property comprised in his settled estates took place, giving rise under the Town and Country Planning Act, 1954, to payments of compensation amounting to £3,645 principal and £513 interest. After *B's* death further sales took place giving rise to payments of compensation amounting to £40,122 principal and £5,695 interest. By this summons the trustees of the will asked, *inter alia*, whether the £513 interest was apportionable over the period from 1st July, 1948, to 30th June, 1955 (by reference whereto such interest was calculated under s. 14 of the Act of 1954), and due proportions of it were payable to *A's* and *B's* personal representatives, or whether it was to be treated as income accrued after *B's* death.

PENNYCUICK, J., said that the question depended on the true construction of s. 65 (3) of the Town and Country Planning Act, 1947. The section was concerned with the position between the State and the owners of the interest in land on the appointed day, not with the beneficial interests in what must be the comparatively rare cases where the interests were held by trustees. Under s. 65 (3) there could be no question of "accruer" in the strict sense. Under the Act no principal debt existed until the Act's value provisions had been carried through, and the sum became ready for payment on the appointed day. Before then, there was no principal sum on which interest could accrue from day to day as on a fixed debt. The Apportionment Act, 1870, did not apply to interest payable under s. 65 (3), which was not an "other periodical payment" within s. 2 of that Act. On the true construction of s. 65 (3), "shall accrue" meant no more than "shall be payable": i.e., the section provided for two matters—an indebtedness by the State to the owners in a sum to be ascertained by reference to the interest on the compensation; and the discharge of that indebtedness by payment in cash. The effect of s. 65 (3) was no more than to provide that on the appointed day the owner should be entitled to the principal compensation and that the interest should be calculated by reference to the period at a certain rate for a certain period on the amount of that compensation. Therefore the interest in question should be treated as income accrued after *B's* death. It had been common ground between counsel that the interest was in the nature of income, not of capital. Order accordingly.

APPEARANCES: *E. G. Wright* (*Cunliffe & Mossman*, for *Knight & Sons*, Newcastle under Lyme); *P. J. Millett* (*Hunters*); *J. P. Brookes* (*W. P. A. Graetz* with him) (*Hunters*).

[Reported by K. R. A. HART, Esq., Barrister-at-Law]

Queen's Bench Division

LEAVE TO APPEAL REFUSED BY COURT OF CRIMINAL APPEAL: WHETHER GROUND FOR HABEAS CORPUS

***Ex parte* Hinds**

Lord Parker, C.J., Streatfeild and Ashworth, JJ.

20th December, 1960

Application for a writ of habeas corpus.

On 16th December, 1953, the applicant was convicted at the Central Criminal Court. He applied for leave to appeal against his conviction, raising a number of grounds of appeal, including the ground that evidence was wrongly admitted at his trial, and on 10th May, 1954, the Court of Criminal Appeal dismissed that application. He now applied for a writ of habeas corpus on the ground, *inter alia*, that he did not have a fair trial and that he had a right of appeal to the Court of Criminal Appeal on a point of law, which appeal had not been heard.

LORD PARKER, C.J., said that the applicant's complaint was not a ground for habeas corpus although it might be a ground for applying to the Court of Criminal Appeal for leave to appeal. Leave to appeal against conviction on a ground involving a point of law alone was not required under s. 3 (*a*) of the Criminal Appeal Act, 1907, but a convicted person had no right of appeal unless he satisfied the Court of Criminal Appeal that there was a real point of law involved. Accordingly, where several grounds of appeal were raised, some on a point of law alone and some on matters of fact, or mixed fact and law, for convenience, the whole matter was listed before the Court of Criminal Appeal in the first instance as an application for leave to appeal. If on such application the court was satisfied that there was a real point of law alone, it would adjourn the hearing on that ground, grant legal aid and list the matter as an appeal. Since the Court of

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(*Continued on p. xvii*)

Criminal Appeal had not adjourned any part of the applicant's application for leave to appeal to be treated as an appeal, it was clear that that court was of the opinion that no point of law alone was involved. That decision was final. The complaint was without foundation and the application for habeas corpus must be refused.

STREATFEILD and ASHWORTH, JJ., agreed. Application dismissed.

[Reported by Miss J. F. LAMB, Barrister-at-Law]

TOWN PLANNING: ENFORCEMENT NOTICE: FAILURE TO COMPLY: CONTINUING OFFENCE: JURISDICTION OF JUSTICES

R. *v.* Chertsey Justices; *ex parte* Frank

Lord Parker, C.J., Winn and Widgery, JJ.

14th February, 1961

Application for order of certiorari.

The applicant failed to comply with an enforcement notice served upon him pursuant to s. 23 of the Town and Country Planning Act, 1947, requiring him to discontinue the use of certain land as a caravan site. He was convicted of an offence under s. 24 (3) of the Act on 2nd July, 1958, but continued to ignore the notice and on 17th December, 1958, was convicted of "continuing the offending use" and fined £334 on the basis of £2 a day for a period of 167 days default. He still continued to use the land as a caravan site and on 13th November, 1959, a further information was laid against him alleging that he had continued to use the land in contravention of the terms of the notice and of s. 24 (3). That information was not heard until 9th March, 1960, on which date the applicant was convicted and fined £1,338. The justices said they would impose a fine at the rate of £3 a day from the date of the last conviction, i.e., 446 days.

WIDGERY, J., delivering the judgment of the court, said that this continuing offence occurred from day to day and s. 104 of the Magistrates' Courts Act, 1952, prevented the magistrates from hearing the information so far as it alleged an offence occurring more than six months before its date. The final sentence of s. 24 (3) of the Act of 1947, viz.: "he shall be guilty of a further offence and liable . . . to a fine not exceeding £20 for every day on which the use so continued" meant a fine not exceeding £20 for every day on which an offence triable by the justices was committed. The expression "fine . . . for every day . . ." tended to connote a fine for an offence on a day falling in point of date within the trial jurisdiction. A penal provision of that kind should not be given a wider interpretation in the absence of clear words. In view of the terms of s. 104 of the Magistrates' Courts Act, 1952, the justices were not concerned with an offence committed on any day falling more than six months prior to the information, nor could they impose a daily penalty in respect of any such day. The conviction would be quashed.

APPEARANCES: *Douglas Frank* (*Sharpe, Pritchard & Co.*, for *Horne, Engall & Freeman*, Egham); *Neil McKinnon*, Q.C., and *J. Harman* (*Champion & Co.*).

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

TOWN PLANNING: ENFORCEMENT NOTICE: WHETHER PLANNING AUTHORITY ESTOPPED BY REPRESENTATION THAT PERMISSION NOT REQUIRED

Southend-on-Sea Corporation *v.* Hodgson (Wickford), Ltd.

Lord Parker, C.J., Winn and Widgery, JJ.

15th February, 1961

Appeal by case stated.

Builders, who were looking for premises in Southend-on-Sea which they could use as a builders' yard, wrote to the borough engineer saying that they had found land which they understood had been so used for about twenty years and that they would be pleased if the borough engineer could tell them if the land could still be used as a builders' yard. The borough engineer replied: ". . . the land . . . has an existing user right as a builders' yard and no planning permission is therefore necessary." The builders bought the land and moved a quantity of equipment and materials on to it and used it as a builders' yard. They would not have bought the land had they thought that planning permission was required. A few months later the town clerk wrote to the builders saying that the corporation had received evidence that the land had no existing use as a builders' yard, and in due course an enforcement notice under s. 23 of the Town and Country Planning Act, 1947, was served by the corporation on the builders requiring them *inter alia* to stop using the land as a builders' yard. The builders appealed to the justices and the justices upheld the builders' contention that the corporation were estopped by the borough engineer's letter from adducing evidence to contradict its contents and quashed the notice. The corporation appealed.

LORD PARKER, C.J., said that he had been inclined to support the decision of the justices, which clearly accorded with common sense. The submission for the corporation, however, was that estoppel could not operate to prevent or hinder the performance of a statutory duty or the exercise of a statutory discretion which was intended to be performed or exercised for the benefit of the public or a section of the public, and that the corporation's discretion to serve an enforcement notice in respect of development which had in fact been carried out without permission was a statutory discretion of a public character. For the builders, it was said that that principle, though it applied to a positive public duty, did not extend to a statutory discretion. His lordship could see no logical distinction between the two. In the case of discretion, the duty imposed by statute was to exercise a free and unfettered discretion. A public authority could not by contract hinder the exercise of their discretion, and similarly they could not fetter themselves by estoppel. His lordship had come reluctantly to the conclusion that the appeal must succeed.

WINN and WIDGERY, JJ., concurred. Appeal allowed.

APPEARANCES: *Nigel Bridge* (*Sharpe, Pritchard & Co.*, for *Town Clerk, Southend-on-Sea*); *Hugh Forbes* (*Drysdale, Lamb & Jackson*).

[Reported by GROVE HULL, Esq., Barrister at-Law]

HIGHWAY: OBSTRUCTION: ARTICLES DISPLAYED ON PAVEMENT OUTSIDE SHOP

*** Seekings *v.* Clarke**

Lord Parker, C.J., Winn and Widgery, JJ.

16th February, 1961

Case stated by Eastbourne justices.

A shopkeeper, who occupied a tobacconist's, newsagent's and fancy goods shop at Eastbourne, hung out a sunblind with side blinds which projected 2 ft. 6 inches over a pavement 16 feet wide. On one of the blinds he affixed a wire stand displaying books, set out wooden shelves 9 ft. long by 1 ft. 6 inches wide by 1 ft. 6 inches high on the pavement in front of his shop and also set out articles for sale, such as buckets and spades, on the ground. He was charged with wilfully obstructing free passage along the highway contrary to s. 121 of the Highways Act, 1959. The justices held that the placing of the articles on and over the footway in front of the shop did not constitute an offence under s. 121 of the Act. The prosecutor appealed.

LORD PARKER, C.J., said that anything which substantially prevented the public from having free access over the whole of the highway that was not purely temporary in nature was

an unlawful obstruction. There were, however, certain exceptions, one of which would be on the principle of *de minimis*, which, no doubt, would cover the common case of the newsagent who hung out a rack of newspapers which, although they projected over the highway, projected only fractionally. In this case, however, the principle of *de minimis* did not apply. Here was a substantial projection into the footway whereby the public were prevented from having free access over the whole of the footway. It was not of a purely temporary nature. The case must go back to the justices with an intimation that an offence was proved.

WINN and WIDGERY, JJ., agreed. Appeal allowed.

APPEARANCES: *Anthony Harmsworth* (*Sharpe Pritchard & Co.*, for *F. H. Busby*, Eastbourne); the respondent did not appear and was not represented.

[Reported by Mrs. E. M. WELLWOOD, Barrister-at-Law]

LOTTERY: WORKING MEN'S CLUB: WHETHER APPLIED FOR PURPOSES OTHER THAN PRIVATE GAIN

Payne and Others *v.* Bradley

Lord Parker, C.J., Winn and Widgery, JJ.

16th February, 1961

Case stated by Huddersfield justices.

On a number of days sessions of tombola were held in a working men's club. Sets of tickets were sold on the premises, each ticket entitling the holder to take part in one session. The sessions were promoted as an entertainment on their own and not as an incident of any other form of entertainment. The prizes were sums of money and the sale of tickets was not confined to members. The proceeds were paid into the general funds of the club out of which the general expenses of the club were met. The directors and trustees of the club were charged with having used in connection with a lottery the main hall of the club for purposes connected with the conduct of the lottery, contrary to s. 22 (1) of the Betting and Lotteries Act, 1934. It was contended that the entertainment was exempted under s. 4 (1) of the Small Lotteries and Gaming Act, 1956, but the justices convicted. On appeal, it was conceded that tombola was a game, that it was being played as entertainment and that it was a lottery, and the sole question for the court was whether the proceeds paid into the general funds of the club were applied for "purposes other than purposes of private gain" within s. 4 (1) of the Act of 1956.

LORD PARKER, C.J., said that, having regard to the various exemptions and the repeated references to private gain in connection with the promotion of a lottery, "private gain" clearly referred to private gain to the organisers of the lottery and those they represented. If the appellants were treated as the club, or as representing the members, it was impossible to contend that the club itself and the individual members did not get a private gain. That was the ordinary and natural meaning of the words, but the appellants had argued that "private gain" in this connection occurred only when money went directly as gain to individuals, and that since, under the rules, no surplus could be divided among members, the members did not get any direct gain or benefit. His lordship was unable to give the words that meaning. In every sense of the words this money was going for the private gain and benefit of the individual members and the appeal must be dismissed.

WINN and WIDGERY, JJ., agreed. Appeal dismissed.

APPEARANCES: *P. M. O'Connor*, Q.C., and *Arthur Hutchinson* (*Biddle, Thorne, Welsford & Barnes*, for *G. E. Hutchinson & Co.*, Huddersfield); *J. M. G. Griffith-Jones* (*Sharpe, Pritchard & Co.*, for *Town Clerk*, Huddersfield).

[Reported by Miss J. F. LAMB, Barrister-at-Law]

Probate, Divorce and Admiralty Division

NULLITY: DEFENCE OF INSINCERITY: WHETHER AN ABSOLUTE OR DISCRETIONARY BAR

W *v.* W

Cairns, J. 13th February, 1961

Defended suit for nullity of marriage.

A husband petitioned for a decree of nullity on the ground that the marriage had never been consummated owing to the wife's wilful refusal to consummate it, and, alternatively, owing to her incapacity. The wife, by her answer, admitted the non-consummation of the marriage, her main defence being that the husband was debarred by insincerity from relief.

CAIRNS, J., said that he was satisfied that the marriage had not been consummated owing to the wife's incapacity. The question therefore arose whether the husband was debarred from a decree of nullity by reason of what had variously been described as insincerity, approbation, or election. On the authorities, it might well be argued that it was not sufficient for the petitioning spouse to show that he did not accept the situation, but that he must show that he complained of it or that he made efforts to overcome it. In the present case, the husband had persistently tried to achieve full penetration of the wife. One first had to consider whether, on the facts of the case, there was conduct amounting to approbation. If so, one must then go on to consider whether it would be inequitable or contrary to public policy to grant a decree. That second branch of the inquiry would involve a question of discretion whether, in all the circumstances, it would be inequitable that the suit should be allowed to succeed. It followed from the court's findings on the husband's attitude to the marriage that there was, in the present case, no question of approbation. If his lordship were wrong about that, and the question of approbation arose, the wife had had at least as much happiness as if the marriage had been promptly annulled. There was no reason for saying that it was inequitable from the wife's point of view that the marriage should be annulled. Nor could any consideration of public policy be served by keeping these parties bound to each other. On the contrary, it appeared to be in the public interest that this husband, a man of normal sexual capacity and passions and with a moral code which deterred him from extra-marital intercourse, should be freed to enter into a marriage with some other woman, and to obtain full sexual satisfaction. There would be a decree nisi of nullity.

APPEARANCES: *Alan Garfitt* (*Robert Blackford & Dumont*); *L. I. Stranger-Jones* (*Bowles & Co.*, Epsom).

[Reported by D. R. ELLISON, Esq., Barrister-at-Law]

Court of Criminal Appeal

MAXIMUM SENTENCE TWELVE MONTHS' IMPRISONMENT: WHETHER BORSTAL APPROPRIATE SENTENCE

R. *v.* Amos

Lord Parker, C.J., Streatfeild, Glyn-Jones, Ashworth and Elwes, JJ. 2nd December, 1960

Appeal against sentence.

The appellant, aged 19, was convicted of obtaining credit by fraud contrary to s. 13 (1) of the Debtors Act, 1869, for which the maximum sentence was twelve months' imprisonment. He was committed to quarter sessions for sentence and was sent to Borstal training. There were several previous convictions. He appealed against sentence.

LORD PARKER, C.J., said that, although the greatest sentence laid down by statute was less than the period during which the

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(*Continued on p. xix*)

appellant would probably undergo Borstal training, nevertheless a sentence of Borstal training was lawful. To hold otherwise would severely limit the powers conferred by s. 28 of the Magistrates' Courts Act, 1952, and s. 20 of the Criminal Justice Act, 1948. The fact that the period of Borstal training would probably exceed the maximum term of imprisonment for the offence was no more than a relevant consideration in deciding whether to impose a term of Borstal training. In the present case such a sentence was appropriate. Accordingly the appeal would be dismissed.

APPEARANCES: *Jane Griffiths* (*Registrar, Court of Criminal Appeal*); *R. M. A. C. Talbot* (*Boyes, Turner & Burrows*, Reading).

[Reported by A. D. RAWLEY, Esq., Barrister-at-Law]

OFFENDER SENTENCED FOR BREACH OF PROBATION: EFFECT ON COMPENSATION ORDER

R. *v.* Evans

Lord Parker, C.J., Streatfeild, Glyn-Jones, Ashworth and Elwes, JJ. 21st December, 1960

Appeal against sentence.

The appellant was convicted by the Waltham Abbey magistrates on 23rd June, 1959, of four offences of obtaining money by false pretences. A probation order for three years was made and the appellant was ordered to pay £14 15s. compensation under s. 11 (2) of the Criminal Justice Act, 1948. After his conviction the appellant moved to Clacton and the Clacton magistrates' court became the supervising court. He subsequently committed a breach of the probation order in that he failed to notify the probation officer of a change of his address and was brought before the Clacton magistrates, as the supervising court, under s. 6 of the Act of 1948. That court committed him for sentence to Essex Quarter Sessions under s. 29 of the Magistrates' Courts Act, 1952, and he was there sentenced to terms of imprisonment amounting to two years. By virtue of s. 5 (4) of the Act of 1948 the probation order ceased to have effect on the passing of that sentence but no reference was made at quarter sessions to the order for compensation. On appeal against sentence the question arose whether the compensation order continued in force.

GLYN-JONES, J., reading the judgment of the court, said that the compensation order continued in force because s. 5 (4) of the Act of 1948 provided only that the probation order should cease to have effect, and there was no express provision in the Act that any other orders were to cease to have effect. Moreover, the court could not attribute to Parliament an intention to take away the right vested in the victims of the crime, in whose favour the compensation order was made, in the absence of clear words having that effect. However, the fact that the offender was still liable to pay compensation might well be a factor to be taken into account by the sentencing court in assessing an appropriate punishment. Appeal allowed in part.

APPEARANCES: *E. D. R. Stone* (*Registrar, Court of Criminal Appeal*); *J. H. Buzzard* (*Solicitor, Metropolitan Police*).

[Reported by A. D. RAWLEY, Esq., Barrister-at-Law]

DISQUALIFICATION AS COMPANY DIRECTOR: DATE FROM WHICH IT RUNS

R. *v.* Bradley

Lord Parker, C.J., Winn and Widgery, JJ.
13th February, 1961

Appeal against sentence.

The appellant pleaded guilty to offences of fraudulent trading and fraudulent conversion and was sentenced to six years' imprisonment and an order under s. 188 of the Companies Act, 1948, disqualifying him from being a director for five years to commence on the day of his discharge from prison.

LORD PARKER, C.J., giving the judgment of the court, and having dismissed the appeal against the sentence of imprisonment, said that as far as s. 188 was concerned, counsel for the Crown admitted that he could not support the dating of the order. It seemed that in principle, unless a statute contained express words to the contrary, a disqualification had to date from the date of conviction. The order under s. 188 would be varied accordingly.

APPEARANCES: *J. W. Harkess* (*Registrar of the Court of Criminal Appeal*); *Sebag Shaw* (*Solicitor to the Board of Trade*).

[Reported by Miss C. J. ELLIS, Barrister-at-Law]

MISPRISION OF FELONY: SENTENCE

R. *v.* Sykes

Lord Parker, C.J., Winn and Widgery, JJ.
13th February, 1961

Appeal against sentence.

The appellant was convicted of misprision of felony in that, knowing that persons had received stolen firearms, he failed to give any information, and was sentenced to five years' imprisonment. He appealed against sentence.

LORD PARKER, C.J., giving the judgment of the court, said that on the assumption that the offence existed it was a common-law misdemeanour and there was no limit in law to the number of years' imprisonment save that in no case could an inordinate sentence be passed. In judging the limitations of the sentence there were two considerations in the present case. First, if the appellant had been charged as an accessory after the fact, the maximum sentence would have been two years, and secondly, by the Statute of Westminster, 1, 3 Edw. I, c. 9, where a sheriff committed misprision the sentence was a year and a day. Even where the nature of the misprision was serious it seemed to the court that it would be impossible to give a sentence of more than two years. The appellant had been in custody since 29th March, 1960, and in the court's opinion had served his sentence, and would be released.

APPEARANCES: *John Hugill* (*Church Adams, Tatham & Co.*, for *Cobbett, Wheeler & Cobbett*, Manchester); *W. D. T. Hodgson* (*Director of Public Prosecutions*).

[Reported by Miss C. J. ELLIS, Barrister-at-Law]

CORRECTIVE TRAINING: LENGTH OF SENTENCE

PRACTICE DIRECTION

Lord Parker, C.J., Edmund Davies and Winn, JJ.
20th February, 1961

At the sitting of the Court of Criminal Appeal, the following practice direction was given.

LORD PARKER, C.J., said that ever since *R.* v. *Grant* (1950), 34 Cr. App. R. 230, where it was laid down that a sentence of corrective training should be for a period of not less than three years, the court had endeavoured to adhere to that principle and as a result a number of sentences of two years' corrective training had been set aside. The court had recently been informed that as a result of experience the Prison Commissioners had found it possible to provide a form of training which could be effected in a two years' sentence. Different individuals responded more or less rapidly to training, and the Commissioners no longer took the view that a three years' sentence was in all cases the shortest period in which effective training could be given. In those circumstances, it was open to the sentencing court to impose a sentence of two years' corrective training if they felt that that would be likely to provide an adequate period of training for the person concerned, and the court would no longer set aside the sentence merely because it was a two years' sentence.

[Reported by Miss J. F. LAMB Barrister-at-Law]

REVIEWS

Woodfall's Law of Landlord and Tenant. Twenty-sixth Edition. By LIONEL A. BLUNDELL, LL.M., Q.C., and V. G. WELLINGS, M.A. (Oxon), of Gray's Inn, Barrister-at-Law. pp. clxxxvii, 2069 and (Index) 56. 1960. London: Sweet & Maxwell, Ltd. Two volumes. £12 12s. net.

Periods of varying length have separated the appearances of successive editions of "Woodfall"; none, one may be astonished to note, so short as that which elapsed before the second edition was published. This, the twenty-sixth edition, follows one produced by the same editors in 1954—needless to say, so much has happened in the six years' interval that many users of the work will be inclined to murmur "high time."

The editors have now resorted to the device of issuing two volumes, the second containing the texts of statutes, of rules, orders and statutory ("prescribed") forms, notices, etc. On balance, there is much to be said for this innovation, though possibly it would not have been necessary if the work dealt less fully with a number of essentially war-time measures such as the Landlord and Tenant (War Damage) Acts of 1939 and 1941 and the Landlord and Tenant (Requisitioned Land) Acts, 1942 and 1944.

The system of paragraph numbering introduced in 1954 is maintained, and both in point of arrangement and in point of comprehensiveness the work leaves nothing to be desired; to take a single instance, a paragraph headed "What painting is included in term 'repair'" will save the busy practitioner much time when confronted with such problems. Again, the chapter on Assignment, Sub-lease and Devolution (ch. 17) covers a number of points which, if they do not crop up every day, are likely to prove difficult though sometimes urgent: such a section as s. 10, describing three modes of execution upon leaseholds, may prove most useful. The academic lawyer will find much food for thought in the editors' provocative treatment of the question of frustration in s. 14 of ch. 18 (determination of the tenancy).

In conclusion, the index deserves a word of praise. Readers who may often have been exasperated by the shortcomings of these vital features will be pleased to find not only that the index is appended to each volume but also that it includes such items as "jewels" and "moles."

The Law relating to National Insurance (Industrial Injuries). The Statutes, Regulations and Orders as now in force. Annotated and Indexed. Volume 1. Edited by J. ST. L. BROCKMAN, B.A., LL.B., of Gray's Inn, Barrister-at-Law, Office of the Solicitor, Ministry of Pensions and National Insurance. pp. xiv and 603. 1961. London: Her Majesty's Stationery Office. £2 5s. net.

Any practitioner who is concerned with claims under the Industrial Injuries Acts will find this new publication, prepared within the Ministry of Pensions and National Insurance, of great assistance. It sets out the provisions of the 1946 Act, embodying all textual amendments current at 1st May, 1960. Later Acts are set out in skeleton form, showing in full only those provisions which affect the Industrial Injuries legislation and have not been inserted in the text of the 1946 Act. Principal regulations are set out in full as amended, with amending instruments reproduced only in so far as they are not incorporated in the text of the principal ones.

The work is published in loose-leaf form and will be kept up to date by supplements consisting of gummed slips for insertion on existing pages and by the issue of pages to replace obsolete ones.

The absence of a general index is a hindrance to obtaining the greatest use from the volume but we are pleased to see that one is in course of preparation.

Marginal cross-references to other regulations are helpful, although it is not possible to know which words in any particular section or regulation were added later, as these are not indicated by italics or brackets. The introduction to the work properly carries a warning that the text is not authoritative for purposes of citation. The work is not completely self-contained in that, should a reader wish to cross-check a marginal note in the light of this warning, he may find that a statutory instrument referred to is not set out in full but appears in a list of titles of instruments omitted.

This new publication should be a time-saver to those concerned with its subject-matter. We understand that similar volumes on National Insurance and Family Allowances are in course of preparation by the Ministry and we look forward to their publication in due course.

CORRESPONDENCE

[The views expressed by our correspondents are not necessarily those of "The Solicitors' Journal"]

Secrecy at the Land Registry

Sir,—Surely a satisfactory compromise between the present practice and the system of publication suggested by my good friend "T.M.A.," in his article on this subject which you published at p. 122, would be achieved if the Land Registry, provided they were satisfied of the bona fides of the request, were in all cases free to disclose the name and address of the solicitors acting on the last dealing. This would obviate the practical difficulty of dividing the register into private and public sections inherent in "T.M.A.'s" suggestions, while in most cases providing a channel of communication with the registered proprietor without exposing the register to the gaze of the idly curious.

ANTHONY R. MELLOWS.

Croydon,
Surrey.

The Future of Legal Education

Sir,—Your article on the above subject (p. 117) was in many ways the most balanced and sensible contribution which I have yet read on this vexed question. As you rightly say, there is no perfect solution, but I was sorry to see that you do not appear even to have considered the special problems of the "ten-year man." With the best will in the world, no one can possibly remedy the fact that he must continue to perform the exacting duties of his post, for which he is of course being paid, whilst serving his articles and reading for the examinations. The Council have concluded that the examinations as at present constituted are altogether too much of a mental and physical strain for articled clerks in general. Consider, then, how much more of a strain they must be to the "ten-year man." Would it, therefore, be asking too much of the Council to say that, until the new syllabus takes effect, the subjects of the present final examination may be taken by "ten-year men" in the same way as is proposed for all articled clerks in Pt. II of the new qualifying examination?

S. P. BEST.

Sturminster Newton,
Dorset.

[Surely, before long the ten-year man will disappear. He is the product of an age of inadequate educational opportunity.—ED.]

Streamlining Conveyancing

Sir,—I see that you ask for comments on the article under this heading (p. 95), which I read with interest. Frankly I cannot see that the method suggested would save either time or effort. As a matter of personal choice I draft with a pen, not a microphone. Without claiming to be a fast writer, I find that my pen will keep up comfortably with my thoughts, so that I can write my phrases as I form them. If I adopted the proposals I might do less writing, but I should do the same amount of thinking and, I fancy, take the same time.

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Crewkerne.—25 miles radius.—TAYLOR & CO., Auctioneers, Valuers, Surveyors, Estate Agents. Tel. 546.
Taunton and District.—C. R. MORRIS, SONS AND PEARD, Land Agents, Surveyors, Valuers, Auctioneers, 6a Hammet Street. Tel. 2546. North Curry. Tel. 319.
Weston-super-Mare.—LALONDE BROS. & PARHAM (Est. 1848), 23 Waterloo Street (Tel. 4500); and at Bristol.

REGISTER OF
Auctioneers, Valuers, Surveyors, Land and Estate Agents

SOMERSET (*continued*)

Weston-super-Mare and District.—MASTERS & CO. F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 5 High Street. Tel. 6443/4.

Yeovil and District.—PALMER, SNELL & CO., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. Tel. 25 and 1796. London Office: 130 Mount Street, W.1.

STAFFORDSHIRE

Stoke-on-Trent and North Staffs.—CHARLES BUTTERS & SONS, Established 1856. Chartered Auctioneers, Surveyors, Valuers and Estate Agents, Trinity Buildings, Hanley, Stoke-on-Trent. Tel. 2138/9. Also at Leek.

SUFFOLK

Bury St. Edmunds and East Anglia.—LACY SCOTT AND SONS, 3 Hatter Street, Bury St. Edmunds. Phone 43 and 692.

Ipswich and East Anglia.—SPURLINGS & HEMPSON (Est. 1780), Chartered Surveyors, Chartered Auctioneers, 26 Princes Street, Ipswich. Tel. 51807/8.

Ipswich and East Anglia.—WOODCOCK & SON, 16 Arcade Street, Ipswich. Tel. 54352 (2 lines). Specialists in Selling Country Property and Farms. Established 1850.

Woodbridge and East Suffolk.—ARNOTT & CALVER, Auctioneers and Valuers. Est. 1870. Tel. 179.

SURREY

Addiscombe, Shirley, Croydon.—MILLER, WILKINS AND CO., Auctioneers, Surveyors and Valuers, 191 Lower Addiscombe Road. Tel. ADDiscombe 2233/4; and 142 Wickham Road, Shirley. Tel. ADDiscombe 4021.

Camberley.—GIDDY & GIDDY, Estate House, London Road. Tel. 1919.

Camberley (Hants and Berks Borders).—SADLER AND BAKER, Chartered Auctioneers and Estate Agents, 95 High Street. Est. 1880. Tel. 4331 (3 lines).

Caterham and District, Sanderstead to Purley.—J. C. O'BRIEN, Station Avenue, Caterham. Tel. 4255 and 348. Limpsfield Road, Sanderstead. Tel. 4426.

Cobham.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 47. Offices throughout West Surrey.

Coulsdon.—SINDEN, TOMKINS & KING, F.A.L.P.A., Valuers, Surveyors and Estate Agents, 26 Chipstead Valley Road. Tel. UPLands 0600.

Croydon.—BLAKE, SON & WILLIAMS. Est. 1798. Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 51 High Street, Croydon. CROydon 7155/6

Croydon, Addiscombe and Wallington.—BOWDITCH & GRANT. (Est. 1881). Surveyors, Valuers, Auctioneers, 103/105 George Street, Croydon. Tel. CRO 0138/9.

Croydon and District.—JOHN P. DICKINS & SONS, Surveyors, Valuers and Estate Agents. Est. 1882. 2 and 4 George Street, Croydon. CROydon 3128/9/30.

Croydon and London.—HAROLD WILLIAMS AND PARTNERS, Chartered Surveyors, Valuers, Chartered Auctioneers and Estate Agents, 80 High Street, Croydon. Tel. Croydon 1931. And at Temple Chambers, Temple Avenue, E.C.4. Tel. Ludgate Circus 9288.

Croydon and Sutton.—SAINT, SYMINGTON AND STEDMAN, Surveyors, Auctioneers and Valuers. 106 High Street, Croydon. Tel. CRO 2216/7. And at 6 Cheam Road, Sutton. Tel. VIG 7616/7.

Dorking.—ARNOLD & SON, Auctioneers & Surveyors, 171 High Street and branches. Est. 1855. Tel. 2201/2.

Dorking.—WHITE & SONS, 104 High Street. Agricultural and General Surveyors and Valuers. Tel. 3255.

Dorking & London.—PEARSON, COLE & SHORLAND, Auction and Estate Offices, Dorking. Tel. 3897/8. Surveyors, Valuers and Auctioneers; and at 2 Hans Road, S.W.3. Tel. Kensington 0066.

Dorking, Bookham and Effingham.—CUBITT AND WEST. Tel. Dorking 2212, Bookham 2744. Valuers, Surveyors, Estate Agents.

Dorking and Reigate.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 258/260 High Street, Dorking. Tel. 4071/2. 6 Church Street, Reigate. Tel. 4422/3. And at Leatherhead and Epsom.

Epsom and Leatherhead.—A. R. & J. GASCOIGNE-PEES, F.A.L.P.A., Auctioneers, Estate Agents and Surveyors, 21 High Street, Epsom. Tel. 4045/6. 4 Bridge Street, Leatherhead. Tel. 4133/4. And at Reigate and Dorking.

Esher.—EWBANK & CO., in association with Mann & Co. Est. 1891. Tel. 3537/8. Offices throughout West Surrey.

Esher.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street. Tel. Esher 3551/2.

Ewell, Epsom, Leatherhead and adjoining areas.—DOUGLAS, F.A.L.P.A. 10 High Street, Epsom. Tel. 2362/4. (Four other offices.)

Ewell.—WILTSHIRES, Estate Agents, Surveyors, Auctioneers and Valuers. 55 High Street. Tel. Ewell 1665/6.

Farnham.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 4 Castle Street. Tel. 5724 (2 lines).

Farnham.—CUBITT & WEST. Tel. Farnham 5261. Valuers, Surveyors, Estate Agents.

SURREY (*continued*)

Farnham.—EGGAR & CO., incorporating Curtis & Watson, Surveyors, Auctioneers, Land & Estate Agents, 74 Castle Street. Tel. 6221/3. And at Alton and Basingstoke, Hants.

Farnham.—GERMAN, ADDY & CO. (Est. 1903). Chartered Auctioneers and Estate Agents, Surveyors and Valuers, 111 West Street. Tel. 5283/4.

Farnham.—WHITEHEAD & WHITEHEAD, amal. HEWETT & LEE, 32 South Street, (Tel. 6277).

Godalming.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, Estate Offices. Tel. 1722 (5 lines).

Guildford.—MANN & CO., Est. 1891, 22 Epsom Road. Tel. 62911/2. Offices throughout West Surrey.

Guildford.—MESSENGER, MORGAN & MAY, Chartered Surveyors, 8 Quarry Street. Tel. 2992/4.

Guildford.—WHITEHEAD & WHITEHEAD, amal. HEWETT & LEE, 144 High Street. (Tel. 2811/2).

Haslemere.—H. B. BAVERSTOCK & SON, Chartered Auctioneers and Estate Agents, 20 High Street. Tel. 1207.

Haslemere and Hindhead.—CUBITT & WEST. Tel. Haslemere 2345/6/7, Hindhead 63. Valuers, Surveyors, Estate Agents.

Kingston.—A. G. BONSOR, STEVENS & CO., Est. 1899, 82 Eden Street. Tel. KIN 0022.

Kingston.—NIGHTINGALE, PAGE & BENNETT, Est. 1825, Chartered Surveyors, 18 Eden Street. Tel. KIN 3356.

Kingston upon Thames and Area.—BENTALLS ESTATE OFFICES (L. J. Smith, F.A.L.P.A., P. F. Parkinson, B.Sc., A.A.L.P.A.), Wood St. KIN 1001. Sales, surveys, property and chattel valuations, lettings, management.

Leatherhead, Ashtead, Oxshott.—CHAS. OSENTON AND CO., Chartered Auctioneers, 36 North Street, Leatherhead. (Tel. 3001/2); Ashstead 2382, Oxshott 3344.

Mitcham.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, Upper Green. Tel. MITcham 6101/2.

Oxshott.—W. J. BELL & SON, Chartered Surveyors, Valuers, Auctioneers and Estate Agents, 51 High Street, Esher. Tel. Esher 4331 (2 lines).

Redhill and Merstham.—E. H. BENNETT & PARTNERS, Auctioneers and Valuers. Tel. Redhill 3672. Merstham 2234/5.

Reigate.—MARTEN & CARNABY, Surveyors, Auctioneers and Valuers, 23 Church Street. Tel. 3361/2.

Richmond.—ACLAND & CO., Estate Agents, Surveyors and Valuers. Rents collected. 27 Kew Road (Opposite Richmond Station). Tel. RIC 4811/2.

Richmond.—PENNINGTONS, 23 The Quadrant, Auctions, Valuations, Surveys. Rents collected. Tel. RIC 2255 (3 lines).

Sanderstead.—HOOKER & ROGERS, Railway Approach, Sanderstead. Manager, K. C. Fox, A.R.I.C.S. Tel. SAN 4414/5.

Surbiton.—E. W. Wallaker & CO., F.A.L.P.A., Surveyors, Valuers, Auctioneers and Estate Agents, 56/7 Victoria Road, Surbiton, Surrey. Tel. Elmbridge 5381/4, and at Chessington, Surrey, Shoreham-by-Sea and Lancing, Sussex. (Chartered Surveyor D. J. Peachey, F.R.I.C.S.)

Sutton.—DOUGLAS GRAHAM & CO., Estate Agents, Property Managers, 269 High Street. Tel. VIG 0026/7/8. And at Thornton Heath, Norbury and Piccadilly, W.1.

Sutton.—IDRIS JONES & PARTNERS, F.R.I.C.S., F.A.I., 22 The Arcade, Sutton. VIGilant 0182; and at 30 Abbey House, Westminster.

Thornton Heath.—LEONARD DAVEY & HART, Chartered Surveyors, Auctioneers, Valuers and Estate Agents, 781 London Road. Tel. THO 6211/2.

Thornton Heath.—DOUGLAS GRAHAM & CO., Estate Agents and Property Managers, 808 London Road. Tel. THO 3888 (4 lines). And at Norbury, Sutton and Piccadilly, W.1.

Virginia Water and Wentworth.—GOSLING AND MILNER, Station Approach, Virginia Water. Tel. Wentworth 2277. And at 8 Lower Grosvenor Place, S.W.1. Tel. Victoria 3634.

Wallington.—WILLIAM A. DAVIS & PARTNERS, 4 Stanley Park Road. Tel. Wallington 2567.

Walton.—MANN & CO., Est. 1891, 38 High Street. Tel. 2331/2. Offices throughout West Surrey.

Walton and Weybridge.—HIGBY & CHARD (Consultants: George Geen, M.A., F.R.I.C.S., V. C. Lawrence, F.R.I.C.S.), 45 High Street, Walton-on-Thames. Tel. 20487/8.

Walton/Weybridge.—WARING & CO. Est. 1890. Surveyors, Estate Agents, Auctioneers and Valuers. Tel. Walton-on-Thames 24151/2.

West Byfleet.—MANN & CO., incorporating Ewbank and Co., Est. 1891. Tel. 3288/9. Offices throughout West Surrey.

Weybridge.—EWBANK & CO., in association with Mann and Co. Est. 1891. Tel. 2323/5. Offices throughout West Surrey.

Weybridge and District.—J. E. PURDIE & SON, Chartered Surveyors and Estate Agents, 1 and 3 Queens Road, Weybridge. Tel. 3307 (3 lines), and at Walton-on-Thames.

Weybridge and District.—WATERER & SONS, Chartered Auctioneers and Estate Agents, Surveyors, etc. Tel. 3838/9.

(*continued on p. xxi*)

SURREY (*continued*)

Woking.—HOAR & SANDERSON, 5 Church Path. Tel. 3263/4. Eleven associated Surrey offices.

Woking.—MANN & CO., Est. 1891, Chartered Surveyor. Tel. 3800 (6 lines). Offices throughout West Surrey.

Woking.—MOLDRAM, CLARKE & EDGELEY, Chartered Surveyors. Tel. 3419; and at Guildford.

SUSSEX

Angmering-on-Sea. Rustington, Worthing and Storrington.—BERNARD TUCKER & SON. Est. 1890. L. B. Tucker, F.R.I.C.S., F.A.I., G. H. E. Evans, F.A.L.P.A., W. J. Brown, F.A.I. Tels. Rustington 1, Worthing 5708/9. Storrington 535.

Arundel and Rustington.—HEASMAN & PARTNERS. Tel. Arundel 2323, Rustington 900.

Bexhill-on-Sea.—JOHN BRAY & SONS (Est. 1864), Estate Agents, Auctioneers and Valuers, 1 Devonshire Square. Tel. 14.

Bexhill-on-Sea and Cooden.—ERNEST SHEATHER, F.A.I., & PARTNER, Auctioneers and Estate Agents, 14 St. Leonards Road. Tel. 350, 351 and 2280.

Bexhill-on-Sea and Little Common.—RICHES & GRAY (Est. 1883), Chartered Auctioneers and Estate Agents, 25 Sea Road, Bexhill-on-Sea. Tel. 34/5. And at 25 Cooden Sea Road, Little Common. Tel. Cooden 2939.

Brighton.—RAYMOND BEAUMONT, F.R.I.C.S., F.A.I., Chartered Surveyors, Chartered Auctioneers and Estate Agents, 35 East Street. Tel. Brighton 20163.

Brighton.—MELLOR & MELLOR, Chartered Auctioneers and Estate Agents, 110 St. James's Street. Tel. 682910.

Brighton and Worthing.—H. D. S. STILES & CO., F.R.I.C.S., F.A.I. (special rating diploma), 6 Pavilion Buildings. Tel. Brighton 23244 (4 lines). 10 King's Bench Walk, Temple, E.C.4. Tel. Central 5356. 3 The Steyne, Worthing. Tel. Worthing 9192/3.

Brighton.—FRANK STONE & PARTNERS, F.A.L.P.A., 84 Queen's Road. Tel. Brighton 29252/3.

Brighton and Hove.—WILLIAM WILLETT, LTD., Auctioneers and Estate Agents, 52 Church Road, Hove. Tel. Hove 34055. London Office, Sloane Square, S.W.1. Tel. Sloane 8141.

Brighton, Hove and Surrounding Districts.—MAURICE P. HATCHWELL, F.R.I.C.S., F.A.I., Chartered Surveyor, Chartered Auctioneer and Estate Agents, 4 Bartholomews, Brighton, 1. Tel. Brighton 23107.

Brighton and Hove and Surrounding Districts.—C. HORTON LEDGER, F.A.I., Established 1885, Chartered Auctioneer and Estate Agent, Surveyor and Valuer, "Sussex House," 126/7 Western Road, Hove. Tel. Sussex. 1291.

Chichester and Bognor Regis.—WHITEHEAD & WHITEHEAD, Chartered Auctioneers and Estate Agents, South Street, Chichester. Tel. 3031 (5 lines). Station Road, Bognor Regis. Tel. 2237/8.

Crawley.—WM. WOOD, SON & GARDNER, Estate Agents, Surveyors and Valuers. Tel. Crawley 1.

Crowborough.—DONALD BEALE & CO., Auctioneers, Surveyors and Valuers. The Broadway. Tel. Crowborough 3333.

Eastbourne.—FRANK H. BUDD, LTD., Auctioneers, Surveyors, Valuers, 1 Bolton Road. Tel. 1860.

Eastbourne.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 12 Gildredge Road. Tel. Eastbourne 1285.

Eastbourne.—HEFFORD & HOLMES, F.A.I., Chartered Auctioneers and Estate Agents, 51 Gildredge Road, Tel. Eastbourne 7840.

Eastbourne.—OAKDEN & CO., Estate Agents, Auctioneers and Valuers, 24 Cornfield Road. Est. 1897. Tel. 1234/5.

Eastbourne and District.—FARNHAM & CO., Auctioneers, Estate Agents and Valuers, 6 Terminus Road, Eastbourne. Tel. 4433/4/5. Branch at 87 Eastbourne Road, Lower Willingdon, and 4 Grand Parade, Polegate.

East Grinstead.—Messrs. P. J. MAY (P. J. May and A. L. Apthorp, F.R.I.C.S., F.A.I., M.R.San.I.), 2 London Road. Tel. East Grinstead 315/6.

East Grinstead.—TURNER, RUDGE & TURNER Chartered Surveyors. Tel. East Grinstead 700/1.

Hassocks and Mid-Sussex.—AYLING & STRUDWICK Chartered Surveyors. Tel. Hassocks 882/3.

Hastings, St. Leonards and East Sussex.—DYER & OVERTON (H. B. Dyer, D.S.O., F.R.I.C.S., F.A.I.; F. R. Hynard, F.R.I.C.S.), Consultant Chartered Surveyors. Estd. 1892. 6-7 Havelock Road, Hastings. Tel. 5661 (3 lines).

Hastings, St. Leonards and East Sussex.—WEST (Godrey, F.R.I.C.S., F.A.I.) & HICKMAN, Surveyors and Valuers, 50 Havelock Road, Hastings. Tel. 6688/9.

Haywards Heath and District.—DAY & SONS, Auctioneers and Surveyors, 115 South Road. Tel. 1580. And at Brighton and Hove.

Haywards Heath and Mid-Sussex.—BRADLEY AND VAUGHAN, Chartered Auctioneers and Estate Agents. Tel. 91.

Horsham.—KING & CHASEMORE, Chartered Surveyors. Auctioneers, Valuers, Land and Estate Agents. Tel. Horsham 3355 (3 lines).

Horsham.—WELLER & CO., Surveyors, Auctioneers, Valuers, Estate Agents. Tel. Horsham 3311. And at Guildford, Cranleigh and Henfield.

Hove.—DAVID E. DOWLING, F.A.L.P.A., Auctioneer, Surveyor, Valuer & Estate Agent. 75 Church Road, Hove. Tel. Hove 37213 (3 lines).

We should never forget that a conveyance is the instrument for carrying out a transaction and should be fitted to the transaction—not the other way round. In the "normal" case a large number of standard clauses will come in. Does one really need a separate piece of paper for each of these? Does one, indeed, need a precedent? I must confess that in these cases I simply draft the conveyance, recitals, testatum, operative words, parcels and all without reference to any precedent. As regards the certificate of value and testimonium clauses, I put an appropriate note and my secretary completes these. In the abnormal case, that is in, say, 40 per cent. of the transactions, I refer to a precedent book and adopt a suitable precedent. In such a case it is surely better and easier to stick to the one source rather than to cope with both the looseleaf sheets and the book. In both cases, however, there is one aid to drafting which I find invaluable but to which the author makes no reference whatsoever—that is the abstract of title.

Finally, a few words about the sample precedents given. I must confess that I find these rather full of unnecessary verbage—in fact, unstreamlined. But worse than this, they do not seem to cope with a number of very common circumstances. For example, the first form of recitals does not cover a mortgagee joining in the conveyance. The second form only recites the state of seisin of the conveyance to the vendors. The third form deals only with a sale by all the executors named in the will and the acknowledgment does not deal with the case of deeds held by mortgagees. As regards the indemnity clause, I do not feel that a common form clause should be adopted for this in any event. It should always be tailor-made.

London, W.1. T. W. PINNOCK.

Sir,—I read with great interest the article in your issue of 3rd February on "Streamlining Conveyancing." I think the ideas set out are excellent but I was horrified to see that the suggested standard form of recitals on a sale by personal representatives referred to the will of the testator.

It is now thirty-six years since the passing of the Law of Property Act, 1925, which enabled conveyancers to keep trust instruments off the title but there are apparently a number of solicitors who cannot trust the curtain provided for them and insist upon bringing trusts on to the title at the slightest provocation. To find that such a practice is even advocated in a journal of your standing fills me with the greatest despondency and to my mind makes nonsense of many of the current attempts to speed up and simplify the work in solicitors' offices. What is the use of streamlining part of the procedure and retaining some of the worst wind-breaks of the past?

Whittlesey, Near Peterborough. R. H. HINTON.

[It should not be assumed that views expressed by contributors of articles are necessarily those of THE SOLICITORS' JOURNAL. We do not seek to limit in any way the expression of viewpoints sincerely held.—ED.]

IN WESTMINSTER AND WHITEHALL

HOUSE OF LORDS

PROGRESS OF BILLS

Read First Time:—

Nurses (Amendment) Bill [H.C.] [13th February.

Right of Privacy Bill [H.L.] [14th February.

To protect a person from any unjustifiable publication relating to his private affairs and to give him rights at law in the event of such publication.

Suicide Bill [H.L.] [14th February.

To amend the law of England and Wales relating to suicide and for purposes connected therewith.

Read Second Time:—

Agricultural Research, etc. (Pensions) Bill [H.C.] [14th February.

Berkshire and Buckinghamshire County Councils (Windsor–Eton Bridge, etc.) Bill [H.L.] [15th February.

Bristol Corporation Bill [H.L.] [15th February.

Devon County Council Bill [H.L.] [14th February.

Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Bill [H.C.] [14th February.

Flood Prevention (Scotland) Bill [H.C.] [16th February.

London County Council (General Powers) Bill [H.L.] [14th February.

Overseas Service Bill [H.C.] [14th February.

Plymouth Corporation (Harrowbeer Aerodrome) Bill [H.L.] [14th February.

Poole Corporation Bill [H.L.] [14th February.

Rio Tinto Rhodesian Mining Limited Bill [H.L.] [9th February.

Sutton Coldfield Corporation Bill [H.L.] [9th February.

Read Third Time:—

Electricity (Amendment) Bill [H.C.] [9th February.

Esso Petroleum Company Bill [H.C.] [9th February.

Weights and Measures Bill [H.L.] [13th February.

Zetland County Council (Symbister Harbour) Order Confirmation Bill [H.C.] [16th February.

HOUSE OF COMMONS

PROGRESS OF BILLS

Read First Time:—

Housing Bill [H.C.] [16th February.

To make further arrangements for the giving of financial assistance for the provision of housing accommodation, to confer further powers on local authorities as regards houses let in lodgings or occupied by more than one family, and houses or other buildings affected by clearance orders and demolition orders, to amend s. 5 of the Rent Act, 1957, by allowing a greater increase in the permitted rent for improvements, to alter the circumstances in which improvement grants and standard grants may be made under Pt. II of the Housing (Financial Provisions) Act, 1958, and the Housing and House Purchase Act, 1959, to amend the law with respect to repairing obligations in short tenancies of dwelling-houses, and to amend the Town Development Act, 1952, as regards development carried out wholly or partly in a county borough and as regards the assistance which may be given by a county council for town development; and for purposes connected with any of those matters.

Television or Broadcasting Service (Prohibition of Control by Newspaper Proprietor) Bill [H.C.] [15th February.

To prohibit a newspaper proprietor from controlling or investing in any television or broadcasting service.

Timothy John Evans Bill [H.C.] [14th February.

To provide for the transfer to his next-of-kin of the remains of Timothy John Evans.

Read Second Time:—

Motor Vehicles (Passenger Insurance) Bill [H.C.] [10th February.

National Health Service Bill [H.C.] [9th February.

National Health Service Contributions Bill [H.C.] [15th February.

To increase the rates of National Health Service contributions and to amend the National Health Service Contributions Act, 1957, and for purposes connected therewith.

Sheriffs' Pensions (Scotland) Bill [H.C.] [15th February.

Read Third Time:—

Nurses (Amendment) Bill [H.C.] [10th February.

In Committee:—

White Fish and Herring Industries Bill [H.C.] [13th February.

STATUTORY INSTRUMENTS

Act of Sederunt (Increase of Fees of Shorthand Writers in the Sheriff Courts), 1961. (S.I. 1961 No. 233 (S.12).) 5d.

Act of Sederunt (Rules of Court Amendment), 1961. (S.I. 1961 No. 234 (S.13).) 4d.

Charities (Methodist Church) Regulations, 1961. (S.I. 1961 No. 225.) 5d.

These regulations, in force on 20th February, enable land held upon the model trust deeds of the Methodist Church specified in the Schedule to the regulations to be sold or otherwise disposed of without the necessity for the order of the court, or the Commissioners, otherwise required by the Charities Act, 1960, s. 29.

Food (Meat Inspection) (Scotland) Regulations, 1961. (S.I. 1961 No. 243 (S.15).) 11d.

London Traffic (Prohibition of Waiting) (Eynsford) Regulations, 1961. (S.I. 1961 No. 200.) 5d.

London Traffic (Prohibition of Waiting) (Woking) Regulations, 1961. (S.I. 1961 No. 201.) 6d.

Marriages Validity (Roman Catholic Church of St. Anselm, Wandsworth) Order, 1960. (S.I. 1961 No. 235.) 5d.

Draft **Metropolitan Police Staffs** Superannuation Order, 1961. 5d.

Mid and South East Cheshire Water Board Order, 1961. (S.I. 1961 No. 232.) 6d.

Motor Vehicles (Tests) (Exemption) Regulations, 1961. (S.I. 1961 No. 209.) 5d. See below.

National Assistance (Charges for Accommodation) (Scotland) Regulations, 1961. (S.I. 1961 No. 242 (S.14).) 5d.

Draft **Police Pensions** (Amendment) Regulations, 1961. 8d.

Draft Police Pensions (Scotland) (Amendment) Regulations, 1961. 8d.

Seeds Regulations, 1961. (S.I. 1961 No. 212.) 1s. 2d.

Sheffield Water Order, 1961. (S.I. 1961 No. 231.) 1s. 2d.

Slough By-Pass Connecting Roads Special Scheme, 1961. (S.I. 1961 No. 237.) 5d.

Stopping up of Highways Orders, 1961:—

County Borough of Barnsley (No. 1). (S.I. 1961 No. 220.) 5d.

County Borough of Barnsley (No. 2). (S.I. 1961 No. 238.) 5d.

City and County Borough of Birmingham (No. 1). (S.I. 1961 No. 221.) 5d.

County Borough of Burnley (No. 1). (S.I. 1961 No. 229.) 5d.

County of Carmarthen (No. 1). (S.I. 1961 No. 226). 5d.

County of Essex (No. 2). (S.I. 1961 No. 208.) 5d.

City and County of Kingston upon Hull (No. 1). (S.I. 1961 No. 199.) 5d.

County of Lancaster (No. 5). (S.I. 1961 No. 198.) 5d.

County of Lancaster (No. 6). (S.I. 1961 No. 215.) 5d.

County of Lincoln—Parts of Lindsey (No. 2). (S.I. 1961 No. 236.) 5d.

City and County Borough of Liverpool and County of Lancaster (No. 1). (S.I. 1961 No. 189.) 5d.

London (No. 5). (S.I. 1961 No. 197.) 5d.

London (No. 6). (S.I. 1961 No. 190.) 5d.

County of Northampton (No. 1). (S.I. 1961 No. 227.) 5d.

City and County Borough of Portsmouth (No. 2). (S.I. 1961 No. 222.) 5d.

County Borough of Southampton (No. 2). (S.I. 1961 No. 223.) 5d.

County of Suffolk, East (No. 1). (S.I. 1961 No. 228.) 5d.

County of Sussex, West (No. 7) Order, 1959 (Variation). (S.I. 1961 No. 239.) 4d.

County of York, West Riding (No. 3). (S.I. 1961 No. 216.) 5d.

County of York, West Riding (No. 4). (S.I. 1961 No. 217.) 5d.

County of York, West Riding (No. 5). (S.I. 1961 No. 218.) 5d.

Truro Water Order, 1961. (S.I. 1961 No. 244.) 6d.

SELECTED APPOINTED DAYS

February

13th Magistrates' Courts Rules, 1961. (S.I. 1961 No. 169 (L.2).)

15th Motor Vehicles (Tests) Exemption Regulations, 1961. (S.I. 1961 No. 209.)

Road Traffic Act, 1956, s. 2, as respects vehicles first registered before 1st January, 1937.

Wages Regulation (Linen and Cotton Handkerchief, etc.) Order, 1961. (S.I. 1961 No. 160.)

16th British Nationality (Cyprus) Order, 1960. (S.I. 1960 No. 2215.)

British Nationality Regulations, 1961. (S.I. 1961 No. 202.)

March

1st Non-Contentious Probate (Amendment) Rules, 1961. (S.I. 1961 No. 72 (L.1).)

NOTES AND NEWS

EXEMPTION FROM VEHICLE TESTS

The Motor Vehicles (Tests) (Exemption) Regulations, 1961 (S.I. 1961 No. 209), in force on 15th February, prescribe that the provision of the Road Traffic Act, 1960, s. 66, making it an offence to use on a road without a test certificate a motor vehicle first registered more than ten years previously shall not apply to vehicles of certain stated classes or descriptions, and they also exempt from that provision vehicles when used for certain specified purposes or when used in certain islands and other areas.

INNER TEMPLE

LORD GUEST OF GRADEN, Mr. Justice LAWTON, Mr. C. E. W. SIMES, Q.C., Mr. G. G. HONEYMAN, Q.C., Mr. N. G. L. RICHARDS, Q.C., and Mr. N. LAWSON, Q.C., have been elected Masters of the Bench of the Inner Temple.

INSURANCE STATISTICS

The publication "Statements of Life Assurance and Bond Investment Business, deposited with the Board of Trade during the year ended 31st December, 1959," is now on sale and can be obtained from H.M. Stationery Office, price £16 10s. per set of two volumes (which are not sold separately). The contents follow the lines of previous editions. The statements of all companies, both British and overseas, which carry on life assurance and/or bond investment business in Great Britain, have been reproduced in full, i.e., life assurance and bond investment revenue accounts, profit and loss accounts, balance sheets and certificates, and actuarial returns as required by s. 5 of the Insurance Companies Act, 1958, as applicable.

GRAY'S INN

Sir KENNETH BAILEY, Sir GERALD G. FITZMAURICE, Q.C., Mr. R. LYONS, Q.C., and Mr. G. S. WALLER, Q.C., have been elected Masters of the Bench of Gray's Inn.

REGISTER OF
Auctioneers, Valuers, Surveyors, Land and Estate Agents

SUSSEX (*continued*)

Hove.—PARSONS SON & BASLEY (W. R. De Silva, F.R.I.C.S., F.A.I.), 173 Church Road, Hove. Tel. 34564.
Hove and District.—WHITLOCK & HEAPS, Incorporated Auctioneers, Estate Agents, Surveyors and Valuers, 65 Sackville Road. Tel. Hove 31822.
Hove, Portslade, Southwick.—DEACON & CO., 11 Station Road, Portslade. Tel. Hove 48440.
Lancing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.
Lewes and Mid-Sussex.—CLIFFORD DANN, B.Sc., F.R.I.C.S., F.A.I., Fitzroy House, Lewes. Tel. 750. And at Ditchling and Hurstpierpoint.
Seaford.—W. G. F. SWAYNE, F.A.I., Chartered Auctioneer and Estate Agent, Surveyor and Valuer, 3 Clinton Place. Tel. 2144.
Storrington, Pulborough and Billinghurst.—WHITEHEAD & WHITEHEAD amal. with D. Ross & Son, The Square, Storrington (Tel. 40), Swan Corner, Pulborough (Tel. 232/3), High Street, Billinghurst (Tel. 391).
Sussex and Adjoining Counties.—JARVIS & CO., Haywards Heath. Tel. 700 (3 lines).
West Worthing and Goring-by-Sea.—GLOVER & CARTER, F.A.L.P.A., 110 George V Avenue, West Worthing. Tel. 8686/7. And at 6 Montague Place, Worthing. Tel. 6264/5.
Worthing.—A. C. DRAYCOTT, Chartered Auctioneers and Estate Agents, 8-14 South Street, Lancing, Sussex. Tel. Lancing 2828.
Worthing.—EYDMANN, STREET & BRIDGE (Est. 1864), 14 Chapel Road. Tel. 4060.
Worthing.—HAWKER & CO., Chartered Surveyors, Chapel Road, Worthing. Tel. Worthing 1136 and 1137.
Worthing.—PATCHING & CO., Est. over a century. Tel. 5000. 5 Chapel Road.
Worthing.—JOHN D. SYMONDS & CO., Chartered Surveyors, Revenue Buildings, Chapel Road. Tel. Worthing 623/4.

WARWICKSHIRE

Birmingham and District.—SHAW, GILBERT & CO., F.A.I., "Newton Chambers," 43 Cannon Street, Birmingham, 2. Midland 4784 (4 lines).
Coventry.—GEORGE LOVEITT & SONS (Est. 1843), Auctioneers, Valuers and Estate Agents, 29 Warwick Row. Tel. 3081/2/3/4.

WARWICKSHIRE (*continued*)

Coventry.—CHAS. B. ODELL & CO. (Est. 1901.) Auctioneers, Surveyors, Valuers and Estate Agents, 53 Hertford Street. Tel. 22037 (4 lines).
Leamington Spa and District.—TRUSLOVE & HARRIS, Auctioneers, Valuers, Surveyors. Head Office: 38/40 Warwick Street, Leamington Spa. Tel. 1861 (2 lines).
Rugby and District.—WIGGINS & RUSSELL, Auctioneers, etc., 14 Regent Place, Rugby (Tel. 2548).
Sutton Coldfield.—QUANTRILL SMITH & CO., 4 and 6 High Street. Tel. SUT 4481 (5 lines).

WESTMORLAND

Kendal.—MICHAEL C. L. HODGSON, Auctioneers and Valuers, 10a Highgate. Tel. 1375.
Windermere.—PROCTER & BIRKBECK (Est. 1841), Auctioneers, Lake Road. Tel. 688.

WILTSHIRE

Bath and District and Surrounding Counties.—COWARD, JAMES & CO., incorporating FORTT, HATT & BILLINGS (Est. 1903), Surveyors, Auctioneers and Estate Agents, Special Probate Department. New Bond Street Chambers. 14 New Bond Street, Bath. Tel. Bath 3150, 3584, 4268 and 61360.
Marlborough Area (Wilts, Berks and Hants Borders). JOHN GERMAN & SON (Est. 1840), Land Agents, Surveyors, Auctioneers and Valuers, Estate Offices, Ramsbury, Nr. Marlborough. Tel. Ramsbury 361/2. And at Ashby-de-la-Zouch, Burton-on-Trent and Derby.

WORCESTERSHIRE

Kidderminster.—CATTELL & YOUNG, 31 Worcester Street. Tel. 3075 and 3077. And also at Droitwich Spa and Tenbury Wells.
Kidderminster, Droitwich, Worcester.—G. HERBERT BANKS, 28 Worcester Street, Kidderminster. Tels. 2911/2 and 4210. The Estate Office, Droitwich. Tels. 2084/5. 3 Shaw Street, Worcester. Tels. 27785/6.
Worcester.—BENTLEY, HOBBS & MYTTON, F.A.I., Chartered Auctioneers, etc., 49 Foregate Street, Tel. 5194/5.

YORKSHIRE

Bradford.—NORMAN R. GEE & HEATON, 72/74 Market Street, Chartered Auctioneers and Estate Agents. Tel. 27202 (2 lines). And at Keighley.

YORKSHIRE (*continued*)

Bradford.—DAVID WATERHOUSE & NEPHEWS, F.A.I., Britannia House, Chartered Auctioneers and Estate Agents. Est. 1844. Tel. 22622 (3 lines).
Hull.—EXLEY & SON, F.A.L.P.A. (Incorporating Officer and Field), Valuers, Estate Agents, 70 George Street. Tel. 3399/2.
Leeds.—SPENCER, SON & GILPIN, Chartered Surveyor, 2 Wormald Row, Leeds, 2. Tel. 3-0171/2.
Scarborough.—EDWARD HARLAND & SONS, 4 Aberdeen Walk, Scarborough. Tel. 834.
Sheffield.—HENRY SPENCER & SONS, Auctioneers, 4 Paradise Street, Sheffield. Tel. 25206. And at 20 The Square, Retford, Notts. Tel. 531/2. And 91 Bridge Street, Worksop. Tel. 2654.

SOUTH WALES

Cardiff.—DONALD ANSTEE & CO., Chartered Surveyors, Auctioneers and Estate Agents, 91 St. Mary Street, Tel. 30429.
Cardiff.—S. HERN & CRABTREE, Auctioneers and Valuers. Established over a century. 93 St. Mary Street. Tel. 29383.
Cardiff.—J. T. SAUNDERS & SON, Chartered Auctioneers & Estate Agents. Est. 1895. 16 Dumfries Place, Cardiff. Tel. 20234/5, and Windsor Chambers, Penarth. Tel. 22.
Cardiff.—JNO. OLIVER WATKINS & FRANCIS, Chartered Auctioneers, Chartered Surveyors, 11 Dumfries Place. Tel. 33489/90.
Swansea.—E. NOEL HUSBANDS, F.A.I., 139 Walter Road. Tel. 57801.
Swansea.—ASTLEY SAMUEL, LEEDER & SON (Est. 1863), Chartered Surveyors, Estate Agents and Auctioneers, 49 Mansel Street, Swansea. Tel. 55891 (4 lines).

NORTH WALES

Denbighshire and Flintshire.—HARPER WEBB & CO., (incorporating W. H. Nightingale & Son), Chartered Surveyors, 35 White Friars, Chester. Tel. 20685.
Wrexham, North Wales and Border Counties.—A. KENT JONES & CO., F.A.I., Chartered Auctioneers and Estate Agents, Surveyors and Valuers. The Estate Offices, 43 Regent Street, Wrexham. Tel. 3483/4.

★ Classified Advertisements ★

PUBLIC NOTICES—INFORMATION REQUIRED—CHANGE OF NAME
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APPOINTMENTS VACANT—APPOINTMENTS WANTED—PRACTICES AND PARTNERSHIPS and all other headings
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Advertisements should be received by first post Wednesday for inclusion in the issue of the same week and should be addressed to THE ADVERTISEMENT MANAGER, SOLICITORS' JOURNAL, OYEZ HOUSE, BREAMS BUILDINGS, FETTER LANE, E.C.4. CHAncery 6855

PUBLIC NOTICES

FRIERN BARNET URBAN DISTRICT COUNCIL

LEGAL ASSISTANT (UNQUALIFIED)

Applications are invited for this post from persons having a sound knowledge and experience of conveyancing. Local government experience not essential. Salary £960 to £1,140 p.a. plus London Weighting.

Applications, stating age, qualifications and experience together with the names of two referees, should reach the undersigned not later than 4th March, 1961.

R. S. CLOTHIER,
Clerk of the Council.

Town Hall,
Friern Barnet,
London, N.11.

COUNTY COUNCIL OF THE WEST RIDING OF YORKSHIRE

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the appointment of Assistant Solicitor in the office of the County Prosecuting Solicitor at a commencing salary of £1,650 per annum, rising by annual increments to a maximum of £2,345.

The appointment is superannuable and the successful candidate will be required to pass a medical examination.

The form of application may be obtained on request and should reach the undersigned not later than the 8th March, 1961.

BERNARD KENYON,
Clerk of the Peace and County Council.

County Hall,
Wakefield.

HAMPSHIRE COUNTY COUNCIL

ASSISTANT SOLICITOR, Scale F (£2,015—£2,345), with previous experience in Local Government, preferably with a County or County Borough Council, required on staff of Clerk of County Council. Commencing salary according to experience. Duties will include committee and administrative work. Separation allowance and assistance with removal expenses in approved cases.

Applications, giving full particulars of age, education, qualifications and experience and the names of two referees, should reach the Clerk of the County Council, The Castle, Winchester, by 10th March.

METROPOLITAN BOROUGH OF WANDSWORTH

ASSISTANT SOLICITOR

Applications invited for this established post within Grade A.P.T. III–IV (£1,005–£1,355).

The appointment is very suitable to a solicitor who seeks to obtain wide experience with a local authority and particularly a metropolitan borough council.

Applications on forms obtainable from this office must reach me by 10th March, 1961.

J. NOEL MARTIN,
Town Clerk.

Municipal Buildings,
Wandsworth, S.W.18.

NEW SCOTLAND YARD

PROSECUTING SOLICITORS on permanent staff of Solicitor's Department. Age 24–40. Salary on appointment, £994 (at age 24) to £1,179 (at age 30) (including London weighting). After one year's satisfactory service the salary will be advanced to a point between £1,145 (at age 25) and £1,350 (age 30); the scale then rises by annual increments to a maximum of £1,922. These amounts will shortly be increased by an addition in the element of London weighting. Non-contributory pension. Good prospects of promotion to higher posts. No previous experience required of criminal prosecutions. Candidates who have passed their final examination but have not yet been admitted will be considered. Particulars from Secretary, Room 165 (LA), New Scotland Yard, S.W.1.

BOROUGH OF ENFIELD

APPOINTMENT OF ASSISTANT SOLICITOR

Applications are invited for the post of—ASSISTANT SOLICITOR—within the A.P.T. Division Grade V, including London Weighting (£1,355—£1,525) according to experience.

Opportunity to gain wide and varied experience in large non-county borough. Population 110,000.

Applications, stating age, particulars of experience and specifying names of two referees, must reach the undersigned not later than 6th March, 1961.

CYRIL E. C. R. PLATTEN,
Town Clerk.

Public Offices,
Gentleman's Row,
Enfield,
Middlesex.

February, 1961.

LONDON COUNTY COUNCIL

HOLBORN COLLEGE OF LAW, LANGUAGES AND COMMERCE,
PRINCETON STREET, BEDFORD ROW, W.C.1
DEPARTMENT OF LAW

Required:—

(1) A SENIOR LECTURER in Law (Permanent)
(2) A LECTURER in Law (Temporary)

A good degree in Law is essential, while experience of legal practice as a Barrister or Solicitor is desirable. Salary (within the following ranges):—

Senior Lecturer, £1,588—£1,801
Lecturer, £1,408—£1,601

Application form from the Secretary to be returned within fourteen days. Please quote (FE.3a/S/329/2).

THE ROYAL BOROUGH OF KENSINGTON

LAW CLERK (UNADMITTED). £1,005—£1,185 p.a. commencing salary according to experience. Candidates must have had experience in a solicitor's office or the legal department of a local authority, and be capable of carrying out general legal and conveyancing work. Applications stating age, qualifications, experience, etc., with names of two referees, to reach Town Clerk, Town Hall, Kensington, W.8, by 6th March, 1961.

BOROUGH OF LOWESTOFT

ASSISTANT SOLICITOR required in the office of the Town Clerk, salary within Grades A.P.T. III–IV rising to a maximum of £1,310 per annum. Commencing salary will be fixed by arrangement according to qualifications and experience. Previous local government experience not essential. The post is superannuable, subject to satisfactory medical examination, and is subject to the appropriate National Conditions of Service, and terminable by one month's notice.

Lowestoft is a seaside and broads holiday resort and fishing port of about 44,000 population and has a variety of light industries. The Borough Council exercises delegated planning and education functions and the post offers excellent opportunities for gaining general experience in the work of a local authority's legal department. A local guide will be sent to prospective applicants on request.

Applications addressed to the undersigned should be sent so as to reach me by noon on Monday, 13th March, 1961, stating particulars of qualifications and experience, giving two references and indicating whether or not applicant is to his or her knowledge related to any member or senior officer of the Borough Council. Canvassing will disqualify.

F. B. NUNNEY,
Town Clerk.

Town Hall,
Lowestoft.
23rd February, 1961.

THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE

Applications are invited for appointment to ASSISTANT LECTURESHIPS in LAW from October, 1961. Salary scale £800 × £50–£950 a year plus £60 a year London Allowance; with superannuation benefits and family allowances. In assessing the starting salary consideration will be given to age and experience.

Applications, with the names of three referees, should be received not later than 27th March, 1961, by the Secretary, The London School of Economics and Political Science, Houghton Street, Aldwych, W.C.2, from whom further particulars may be obtained.

WEST SUSSEX COUNTY COUNCIL

require a Clerk with substantial experience in a Solicitor's Office. Salary £815–£960 per annum. Knowledge of shorthand is desirable but not essential. Applications, stating age, experience and present appointment, together with names and addresses of two referees to Clerk of the County Council, County Hall, Chichester, Sussex, by 3rd March, 1961.

APPOINTMENTS VACANT

BERKSHIRE.—Newly qualified solicitor required as assistant in small general practice in busy market town.—Box 7348, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

continued on p. xxiii

AN INDUSTRIAL LAW SOCIETY

A number of barristers and solicitors interested in industrial law and labour relations met in Niblett Hall on Thursday, 16th February. Also present were some personnel managers, factory inspectors and trade union officials. They had been invited to discuss the possibility of forming an "Industrial Law Society," and to listen to a talk on "The Rôle of the American Lawyer in Industry and Labour Relations" by the U.S. Labour Attaché. Mr. F. W. Beney, Q.C., was in the chair.

Owing to illness, the address was given by Mr. Ulf Berggen, the Swedish Labour Attaché. He spoke and answered a large number of questions about "Collective Bargaining in Sweden." At the end of the meeting some of those present agreed to form a provisional committee under the chairmanship of Mr. Beney to make arrangements for the establishment of the society. The American Labour Attaché will give his address in April. Mr. Hugh Pierce will act as Secretary for the time being, and is accepting applications for membership and inquiries, which should be sent to him c/o Justice, 1 Mitre Court Buildings, Temple, E.C.4.

Mr. Berggen explained in outline the working of the Swedish collective bargaining machinery, the smooth functioning of which has reduced strike action to a rarity in Sweden. After equating the two populations, only one day per year is lost by strikes in Sweden compared to thirty days in Britain.

The secret of Swedish success lies in the high degree of organisation of both the Swedish Employers' Federation (SAF) and the Swedish Trade Union Congress (LO). Both these bodies employ expert staff to advise them on economics and wage trends, and they make use of lawyers to conduct negotiations. Eighty per cent. of the staff of the SAF have a legal qualification. Although unions and employers have theoretical freedom to conduct negotiations, the general pattern is laid down in advance by the central organisations. The General Council of LO meets each autumn to decide its policy for the forthcoming year. Negotiations for new contracts in each industry are carried out during the first three months of the following year.

These contracts are known as "collective contracts," and they cover all the workers in the industry concerned. They are usually valid for a year, but continue unless one party gives three months' notice of termination. Once signed they have the force of law, and any breach of their terms is a civil wrong, enforceable in the Labour Court and penalised by damages. Not only can those directly responsible be condemned in damages, but even remoter parties, such as employers' associations or unions, can be made responsible. The Labour Court consists of seven members, of whom three are appointed by the government (two being judges), two by SAF and two by LO. The court has a rapid procedure, and hears about 300 cases a year.

In addition to the court the government provides eight mediators, one for each region, who must be called in if negotiations for a collective contract break down. If the mediator is unsuccessful, there is a standstill enforced by law for seven days, neither party being allowed to strike or lock-out during that time. A further safeguard against unnecessary strikes is provided by the constitution of LO, which requires that its Executive Board must approve strike action involving more than 3 per cent. of the membership of any constituent union. Unless this consent is given the LO will refuse support from its national strike fund.

Not surprisingly, this efficient system of bargaining has led to steadily rising standards for all classes. Already a 3-week holiday with pay is general, and a Royal Commission is now studying the possibility of extending the period to four weeks. The responsible attitude of the unions has led to universal support and almost universal membership, over 90 per cent. of the country's employed population being members. Even more significantly, about 80 per cent. of the country's salaried employees and professional men belong to a union.

Mr. Berggen, answering questions, expressed the opinion that the greatest obstacle in Britain to nation-wide collective bargaining was the existence of so many fragmentary employers' associations and craft unions. In Sweden, employers and employees in an industry are all united together in one single body, which in turn is affiliated to one national body.

COUNTY COURT BENCH

Mr. William Alan Belcher Goss has been appointed a Judge of County Courts. He is relinquishing his Recordership of Doncaster.

The Lord Chancellor, with the consent of the Chancellor of the Duchy of Lancaster, has arranged that His Honour Judge Trotter will become one of the judges of Circuit 8 (Manchester and Leigh), and that Mr. Goss will replace him as one of the judges of Circuit 4 (Leeds, etc.).

EXTRAORDINARY GENERAL MEETING OF THE BAR

An Extraordinary General Meeting of the Bar will be held on Tuesday, 28th March, at 4.30 p.m., in the Middle Temple Hall, at the request of more than forty practising barristers, with the object of amending para. 3 of the Annual Statement, 1959, which deals with the conduct of practising barristers who are members of local authorities.

HOUSE IMPROVEMENT DEMONSTRATED

A demonstration of houses improved by a private landlord has been organised in co-operation with the Ministry of Housing and Local Government and is open to the public free from 15th February until 11th March at 11, 13 and 15 Hugon Road, Fulham, London, S.W.6 (Mondays to Fridays, 11 a.m. to 8 p.m.; Saturdays, 10 a.m. to 6 p.m.). The demonstration houses have been selected to show examples of how older properties can be improved with the aid of the system of grants.

£20,000 DAMAGES AWARDED

A girl of eleven who has been paralysed since a road accident in which her back was broken eighteen months ago was awarded by consent £20,000 damages, and her father £2,000, in a case at Chester Assizes on 13th February. The girl was riding in a car which went off the road.

EVIDENCE BY CERTIFICATE

The Evidence by Certificate Rules, 1961 (S.I. 1961 No. 248 (L.3)), in force on 1st March, revoke and reproduce the Evidence by Certificate Rules, 1948 (S.I. 1948 No. 2664), taking account of the passing of the Road Traffic Act, 1960. They also provide that service may be effected by the new recorded delivery service in the case of certificates and statutory declarations proposed to be used in evidence in criminal proceedings and of notices connected therewith.

THE WEEKLY LAW REPORTS

Cases reported in the issue of the *Weekly Law Reports* dated 17th February include the following:—

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Archbolds (Freightage), Ltd. *v.* S. Spanglett, Ltd.; Randall (third party)	2	170
Bollinger (J.) *v.* Costa Brava Wine Co., Ltd. (No. 2)	1	277
Bosworth, The (No. 1)	1	312
Bosworth, The (No. 2)	1	319
Butterley Co., Ltd. *v.* Tasker	1	300
Hinds, *Ex parte*	1	325
Lewis *v.* Frank Love, Ltd.	1	261
London County Council *v.* Cutts	1	292
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R. *v.* Evans	2	213
Westerbury Property and Investment Co., Ltd. *v.* Carpenter	1	272
Weston *v.* Lawrence Weaver, Ltd.	2	192
Windsor Refrigerator Co., Ltd. *v.* Branch Nominees, Ltd.	2	196

Societies

The CENTRAL AND SOUTH MIDDLESEX LAW SOCIETY held its annual general meeting on 8th February at the Century Hotel, Forty Lane, Wembley. Over eighty members and associate members attended. The new president expressed the thanks of all members for the work of the outgoing president, Mr. J. Anthony S. Nicholls (Wembley). After the business of the annual meeting was concluded, Mr. John F. Warren, Under Secretary of The Law Society, spoke to members on legal education. Members were very interested in his references to refresher courses of two weeks' duration held by West German lawyers in Switzerland. The following officers, etc., were elected: President: Ronald C. Politeyan; Vice-Presidents: John E. Aylett; Kenneth Goodacre, T.D., D.L. (Clerk to Middlesex County Council); Hon. Secretary: William Gillham; Hon. Assistant Secretary: Michael N. Crocker; Hon. Treasurer: Reginald G. Phillips; Auditors: Michael B. Buck and Reginald L. Bignell; Committee: Elizabeth Craig, John C. Christie, Beresford J. Evans, Hugh C. Fraser, Reginald C. Garrod, Geoffrey E. Green, Derrick L. Grove, L. Lane Heardman, Ronald C. Maynard, J. C. McNaughton, Roy Machin Smith, Gerhard J. Seeman, Philip N. Stollard, D. Bentley Taylor, Mrs. L. E. Vickers and Geoffrey E. Wright.

A joint meeting of the SUSSEX SOCIETY OF YOUNG SOLICITORS and the Sussex Junior Branch of the Royal Institution of Chartered Surveyors has been arranged for 10th March next. The meeting will take place at 6.30 p.m., at the Metropole Hotel, Brighton, and the speaker will be Mr. Desmond Heap, LL.M., P.P.T.P.I., Comptroller and City Solicitor. His subject will be "The whys and wherefores of town and country planning; or, you can't be happy till you get it."

The UNITED LAW DEBATING SOCIETY is to hold a hat debate on Monday, 27th February, at 7.30 p.m. in Gray's Inn Common Room. The subjects for discussion will be selected at the meeting.

The WALSALL LAW STUDENTS' ASSOCIATION held its first annual dinner on 8th February at the Elms Hotel, Aldridge, some ninety members and guests being present.

Honours and Appointments

The honour of knighthood has been conferred on Mr. Justice SCARMAN, Mr. Justice WIDGERY and Mr. Justice PLOWMAN.

Mr. ROY OXSPRING BARLOW, assistant solicitor with Derbyshire County Council, has been appointed senior prosecuting and common-law solicitor with Sheffield City Council.

Mr. JOHN BOYLE, an assistant solicitor in the town clerk's department at Southampton, has been appointed senior assistant solicitor in the town clerk's department at Eastbourne.

Mr. DENIS EUSTACE GILBERT MALONE, Solicitor-General, Barbados, has been appointed a Puisne Judge in British Honduras.

Mr. GEORGE STANLEY WALLER, Q.C., has been appointed Attorney-General of the County Palatine of Durham.

Personal Note

Mr. DEREK TREVOR LEWIS, solicitor, of Bradford, was married on 14th February to Miss Pamela Jean Ratcliffe, of Bradford.

Obituary

Mr. JOHN HARRY MOORE DUTTON, solicitor, of Chester, clerk to Tarvin Rural Council since 1938, died on 29th January, aged 64. He was admitted in 1925.

Mr. HAROLD CAPEWELL JAMES, solicitor, of Bury, died on 13th February, aged 53. He was admitted in 1931.

Mr. ALBERT HENRY THROSSELL, retired solicitor, of Orpington, Kent, formerly of London, E.C.2, died on 15th February, aged 78. He was admitted in 1932.

Wills and Bequests

Mr. FRANK LESLIE NEWTON, retired solicitor, of Storrington, Sussex, formerly of Worthing, left £188,939 net. He left £2,000 to the governors of Tonbridge School, and the residue after other bequests equally between the Church Army, Dr. Barnardo's Homes, St. Dunstan's, the Church of England Children's Society, the R.N.L.I. and the N.S.P.C.C.

PRACTICE DIRECTION

CONTEMPT OF COURT

APPEALS FROM CHANCERY DIVISION

Notices of appeal which by Ord. 58, r. 20 (1), of the Rules of the Supreme Court are required to be served on "the proper officer of the court from whose order or decision the appeal is brought" may, in the case of appeals from the Chancery Division of the High Court of Justice, be served on the Chief Registrar of that Division and such service may be effected by leaving a copy of the notice of appeal with the Cause Clerk in Room 136, Royal Courts of Justice, Strand, London, W.C.2.

By direction of the judges of the Chancery Division.

J. B. H. WYMAN,
Chief Registrar,
Chancery Division.

3rd February, 1961.

PRINCIPAL ARTICLES APPEARING IN VOL. 105

"THE SOLICITORS' JOURNAL"

Editorial, Publishing and Advertising Offices: Oyez House, Breams Buildings, Fetter Lane, London, E.C.4. Telephone: CHAncery 6855.

Annual Subscription: Inland £4 10s., Overseas £5 (payable yearly, half-yearly or quarterly in advance).

Classified Advertisements must be received by first post Wednesday.

Contributions are cordially invited and should be accompanied by the name and address of the author (not necessarily for publication).

Classified Advertisements

continued from p. xxii

APPOINTMENTS VACANT—*continued*

CITY Solicitors require Managing Clerk mainly for Probate. Good prospects; salary dependent on experience. No Saturdays. Replies treated in confidence.—Box 7440, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

ASSISTANT Solicitor required mainly for Conveyancing. Able to work without supervision or with slight supervision. Five-day week. Salary by arrangement.—Write stating age and experience Marcan & Dean, 20 Victoria Street, S.W.1.

MANAGING Clerk required in Common Law Department by East Midlands Solicitors. Salary up to £1,000 according to experience. Modern Offices, Pension Scheme, assistance with accommodation if necessary.—Box 7442, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND-ON-SEA.—Solicitors require Accountant/Cashier full charge some previous experience in a Solicitors Office, age approximately 40 years.—Box 7443, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

HARROW AREA.—Assistant Solicitor required for General Practice but mainly conveyancing. Salary dependent on age and experience. Partnership prospects.—Box 7410, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LONDON, W.C.1, firm require unadmitted man for general litigation and also to assist with specialised work in the field of Road Transport Licensing; previous experience of the latter not essential, but experience of interviewing clients desirable.—Please telephone HOLborn 4051 or write with particulars—age, experience and salary required.—Box 7441, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EAST MIDLAND County Town. £900–£1,000 p.a. to unadmitted Solicitor's Clerk for Common Law Department. Good prospects. Pension Fund. Car expenses.—Box 7455, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHALL Middlesex Solicitors require conveyancing manager. Salary not less than £1,000. Pension. Housing assistance.—Box 7457, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MAIDENHEAD Solicitors require Assistant Solicitor for conveyancing work, but with opportunities of advocacy if required. Might suit recently Admitted Solicitor if sufficient experience during Articles. Good salary according to experience. Write with details of experience.—Box 7454, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING and Probate Assistant (admitted or unadmitted) required. Please state experience. Salary up to £1,200 per annum for the right person.—Charles & Co., 54A Woodgrange Road, Forest Gate, London, E.7. MARyland 6167.

PROBATE managing clerk required (male or female) by South London Solicitors; own office; minimum supervision or as required; Stenorette system; 3 weeks' vacation; salary according to experience.—Box 7320, Solicitors' Journal, Oyez House Breams Buildings, Fetter Lane, E.C.4.

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Great Cambridge Road,
Enfield, Middlesex.

MESSRS. William Charles Crocker have vacancy for Managing Clerk of good ability at their West End branch. Must be fully experienced varied Conveyancing. Five day week.—Please apply in writing giving particulars of age, experience and salary required to 22 Bentinck Street, London, W.1, marking envelope reference T and Confidential.

WEST Sussex Solicitors require conveyancing and probate managing clerk or assistant solicitor capable of working with slight supervision. Salary £850 to £1,000 according to experience.—Box 7417, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Managing Clerk (unadmitted), aged between 30 and 40, required by old established and expanding City firm. Good prospects. Salary by arrangement.—Box 7416, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR to Companies—City London. Write stating age, experience and if office required.—Box 7458, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EAST MIDLANDS.—Midlands city solicitors require young solicitor with 3/4 years experience to take virtually sole charge of branch office being opened to handle building estate: opportunity to develop new practice with an existing nucleus of conveyancing work: salary by arrangement initially but share of the profits of that office would be considered subsequently depending on progress: living accommodation may be available over office.—Box 7459, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHEND Solicitors with large debt collecting and litigation department require Assistant Clerk preferably male in that department—one with experience preferred—but applicants aged 17 to 20 would be considered if willing to learn an interesting job. Good prospects and pension scheme. Write giving full details.—Box 7460, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (Assistant) required by WEST HAM CORPORATION. Previous local government experience not essential but applicants must be willing to undertake advocacy. Pensionable. Apply, stating salary required, to Town Clerk, Town Hall, Stratford, E.15, by 3rd March, 1961.

LEWIS'S Limited wish to appoint a solicitor aged 30–35, as Assistant Secretary and Head of their Legal Department at their Head Office in Liverpool. Excellent prospects for further advancement for a commercially-minded man of good personality. Salary by arrangement. Write to the Secretary, Lewis's Ltd., 40 Ranelagh Street, Liverpool, 1.

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SOLICITOR, recently admitted, required by National organisation; £1,000 p.a. initial salary. Facilities for developing own practice.—Box 7462, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANAGING Clerk, experienced Conveyancing and Probate. City Office, no Saturdays. Prospects good. Salary will depend on experience. Replies treated in confidence.—Box 7463, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOUTHAMPTON solicitors require assistant solicitor, general practice, including litigation and advocacy. Good salary and partnership prospects.—Full particulars, Jasper & Nicholson, 35 Carlton Crescent, Southampton.

ASSISTANT Solicitor required by expanding Bristol firm. Some general experience preferred but newly admitted man will be considered.—Box 7465, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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Applications should be addressed to the Personnel Manager, Glaxo Laboratories Limited, Greenford, Middlesex.

★ Classified Advertisements ★

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APPOINTMENTS VACANT—*continued*

NEWCASTLE Insurance Company has opening suitable for Common Law Clerk in connection with the investigation of Employers' Liability and Public Liability claims. Excellent prospects for young man aged 25–30. An interesting and progressive post with good salary and non-contributory pension scheme.—Write giving full details to Box 7466, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

COSTS Clerk required by Holborn solicitors; generous salary; excellent amenities in modern offices; five-day week; pension scheme.—Apply giving full particulars and salary required.—Box 7467, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SENIOR Partner of Holborn solicitors requires personal assistant (admitted or unadmitted) experienced in company work. Generous salary and excellent prospects for able applicant with possibility of partnership in case of admitted solicitor. Very comfortable modern offices with all amenities; five-day week; pension scheme.—Apply Box 7468, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

YOUNG Solicitor with some suitable experience required by leading Lincoln's Inn solicitors to assist partners with tax planning settlement, Chancery Litigation and trust work generally. Starting salary £1,100.—Box 7469, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PROBATE Managing Clerk with good experience required by Lincoln's Inn Solicitors. Salary £1,050 p.a. with prospects. Luncheon vouchers and non-contributory pension scheme.—Write with particulars experience, age and availability to Box 7470, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EXPERIENCED Litigation Clerk required by Lincoln's Inn Solicitors, principally for Agency and Debt Collecting work.—Box 7471, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LEICESTER.—Solicitors require experienced litigation Managing Clerk. Capable of acting with minimum supervision. Excellent salary and prospects. Pension scheme.—Write, Box 153, Reynells, 44 Chancery Lane, W.C.2.

CONVEYANCING Clerk or junior Conveyancing Clerk, male or female, required by Holborn Solicitors.—Write with particulars to Box 155, Reynells, 44 Chancery Lane, W.C.2.

LIVERPOOL.—Assistant Solicitor required immediately. General practice but knowledge of and interest in conveyancing essential.—Box S.132, Lee & Nightingale, Liverpool, 2.

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GRACE, DARBYSHIRE & TODD,
Chartered Accountants,
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require MANAGER for their Trustee Estates, and Registration Department. Experience in such work and sound knowledge of the relative law and taxation practice, etc., together with ability to train and supervise staff. No travelling is involved. A 5-day week is worked. The post is pensionable and carried a salary of £1,250 p.a.

LEICESTER.—Assistant Solicitor with some experience required for old-established general practice. Must be willing to undertake some advocacy. Good salary and partnership prospects.—Write Box 152, Reynells, 44 Chancery Lane, W.C.2.

THE Advertisement Department of THE SOLICITORS' JOURNAL has a vacancy for an assistant, age 18–25. Good shorthand/typing. Experience in advertising not essential.—Write, The Manager, The Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LONDON.—An Assistant Solicitor, age under 35, required in the Legal Department of a progressive Life Office to deal mainly with conveyancing and company matters. Commencing salary up to £1,500 dependent on age and experience. Widow's pension and non-contributory retirement pension schemes in operation. Excellent early prospects for the right applicant.—Box 7482, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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BATH.—Partner on conveyancing and probate side requires personal Assistant able to succeed him on his retirement. Exceptional prospects in well-established and growing firm.—Box 7476, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

LITIGATION Managing Clerk (unadmitted) required by West Country solicitors. Experienced in divorce. Good salary dependent upon experience.—Box 7477, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

COST Clerk required by West End firm; general practice; good salary and prospects.—Box 7357, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

CONVEYANCING Managing Clerk required by West End firm to manage substantial and expanding department dealing with Estate Development (with some general conveyancing); good commencing salary according to experience with fixed periodic review; pension scheme, Luncheon Vouchers, no Saturdays.—Box 7412, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

PLYMOUTH Solicitors require energetic and keen young Solicitor with High Court experience and conveyancing ability. Partnership prospects later.—Box 7479, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

WATFORD, Herts.—Assistant Solicitor required in busy office. Conveyancing and general—some litigation. Good prospects.—Box 7418, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MULTIPLE Shop Company require Male Clerk, age about 22/24 for Estates Department. Duties will include abstracting leases and conveyances, maintaining property records, instructing solicitors, etc. Five-day week, Canteen, Sports Club and Pension facilities.—Phone Monarch 8522.

DERBY.—Very old-established firm requires unadmitted managing clerk for probate. Some knowledge of conveyancing and income tax an advantage. £800–£1,000 per annum, or more, according to experience. Good prospects. Pension scheme. House could be provided. Holiday arrangements honoured.—Box 7478, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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(VOLUNTARILY Disbarred) Barrister seeks engagement with high-class firm.—Box 7434, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

MANAGING Clerk, 20 years' experience in same employment with experience motor claims, public liability, E.L. and general work. Desires position with progressive firm—accustomed to working without supervision and advising insurers. Salary £1,500 and bonus.—Box 7472, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (admitted 1947), seeks progressive post. Experienced conveyancer, leases, mortgages, building estate development, Rent Acts, Litigation and Probate. Interview requested.—Box 7446, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR, Honours graduate (40), requires appointment; extensive varied legal experience in private practice and with a large industrial organisation, Examiner in law, formerly a lecturer.—Box 7449, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR, admitted 1935, desires appointment, Conveyancing and general practice. Salary £2,000, not London.—Box 7473, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

EASTBOURNE or within 30 miles.—Solicitor, Public School, B.A. Cantab., admitted 1938, desires to return to general practice after some years in different occupation. Prepared to accept moderate remuneration during "refresher" period, if some prospects.—Box 7480, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

SOLICITOR (26) LL.B. (Hons.), admitted 1959, seeks responsible position in London with prospects. General experience.—Box 7481, Solicitors' Journal, Oyez House, Breams Buildings, Fetter Lane, E.C.4.

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★ Classified Advertisements ★

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Agents—The United States and Canada: The Carswell Co., Ltd., 145–149 Adelaide Street West, Toronto, 1, Canada; Australia and New Zealand: The Law Book Co. of Australasia Pty., Ltd., 140 Phillip Street, Sydney, N.S.W.; India and Pakistan: N. M. Tripathi, Ltd., 164 Princess Street, Bombay.
Published Weekly, 1s. 9d. Friday, February 24, 1961 Registered at the G.P.O. as a newspaper